

SENATE*Friday, May 31, 2023*

The Senate met at 1.30 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Amery Browne, Sen. The Hon. Paula Gopee-Scoon and Sen. The Hon. Rohan Sinanan, all of whom are out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from Her Excellency the President Christine Carla Kangaloo, O.R.T.T.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA
KANGALOO, O.R.T.T., President of the
Republic of Trinidad and Tobago and
Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo

President.

TO: MR. NDALE YOUNG

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

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, 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

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Senators' Appointment

2023.05.31

accordance with the advice of the Prime Minister, do hereby appoint you, NDALE YOUNG to be a member of the Senate temporarily, with effect from the 31st May, 2023 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Dr. Amery Browne.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 31st day of May, 2023."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces

/s/Christine Kangaloo

President.

TO: MS. YOKYMMA BETHELMY

WHEREAS Senator the Honourable Paula Gopee-Scoon is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, 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 appoint you, YOKYMMA BETHELMY to be a member of the Senate temporarily, with effect

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Senators' Appointment

2023.05.31

from the 31st May, 2023 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Paula Gopee-Scoon.

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 31st day of May, 2023."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE CARLA KANGALOO, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/Christine Kangaloo

President.

TO: MR. HARVEY BORRIS

WHEREAS Senator the Honourable Rohan Sinanan is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, 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 appoint you, HARVEY BORRIS to be a member of the Senate temporarily, with effect from 31st May, 2023 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Rohan Sinanan.

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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 31st day of May, 2023.”

AFFIRMATION OF ALLEGIANCE

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

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Yokymma Bethelmy and Mr. Harvey Borris.

MUNICIPAL CORPORATIONS (EXTENSION OF TERMS OF OFFICE AND VALIDATION) BILL, 2023

Bill to extend the terms of office of Councillors and Aldermen elected in December 2019, to provide for elections in 2023 and to validate the actions of the said Councillors and Aldermen between 2nd December 2022 and 18th May 2023. [*The Attorney General and Minister of Legal Affairs*]; read the first time.

Motion made: That the next stage be taken later in the proceedings. [*Hon. R. Armour SC*]

Question put and agreed to.

VALUATION OF LAND (AMDT.) BILL, 2023

Bill to amend the Valuation of Land Act, Chap. 58:03 [*The Minister of Finance*]; read the first time.

Motion made: That the next stage be taken on June 02, 2023. [*Hon. R. Mitchell*]

Question put and agreed to.

**MISCELLANEOUS PROVISIONS ESTABLISHMENT OF THE
BOROUGH OF DIEGO MARTIN AND THE BOROUGH OF SIPARIA
BILL, 2021**

Bill to amend the Municipal Corporations Act, Chap. 25:04 to establish the Borough of Diego Martin and the Borough of Siparia and to make consequential amendments to the Representation of People Act, Chap. 2:01, the Interpretation Act, Chap. 3:01, the Election and Boundaries Commission (Local Government and Tobago House of Assembly) Act, Chap. 25:50, the Motor Vehicles and Road Traffic Regulations, Chap. 48.50, the Central Tenders Board Act, Chap. 71.91 and other written laws [*The Minister of Rural Development and Local Government*]; read the first time.

Motion made: That the next stage be taken on June 06, 2023. [*Hon. R. Mitchell*]

Question put and agreed to.

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2006. [*The Minister of Tourism Culture and the Arts (Sen. The Hon. Randall Mitchell)*]
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2007. [*Sen. The Hon. R. Mitchell*]

Ministerial Response of the Office of the Prime Minister to the First Report of the Public Accounts (Enterprises) Committee on the examination of Audited Financial Statements of the Urban

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- Development Corporation of Trinidad and Tobago Limited (UDeCott) for the financial years 2014 and 2015. [*Sen. The Hon. R. Mitchell*]
3. Ministerial Response of the Office of the Prime Minister-Communications to the Fifth Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the implementation of a Regulatory Framework for the Development of Financial Technology (Fintech) and E-Payments. [*Sen. The Hon. R. Mitchell*]
 4. Ministerial Response of the Ministry of Planning and Development to the Fifth Report of the Joint Select Committee on Social Services and Public Administration on an inquiry into the State's Capacity to provide support for victims of Domestic Violence and Family Conflicts (with specific focus on the availability of support mechanisms during the COVID-19 pandemic). [*Sen. The Hon. R. Mitchell*]
 5. Value Added Tax (Bond-Payment Refund) (Amendment) Regulations, 2023. [*Sen. The Hon. R. Mitchell*]
 6. Special Report of the Auditor General of the Republic of Trinidad and Tobago on the Audit of Sustainable Development Goal (SDG) 3 Target D - Contributing Towards A Strong and Resilient National Public Health System (2016-2021). [*Sen. The Hon. R. Mitchell*]
 7. Ministerial Response of the Ministry of Finance to the Fifth Report of the Joint Select Committee on Finance and Legal Affairs on an inquiry into the implementation of a Regulatory Framework for the Development of Financial Technology (Fintech) and E-Payments. [*Sen. The Hon. R. Mitchell*]

8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority – Environmental Trust Fund for the year ended September 30, 2022. [*Sen. The Hon. R. Mitchell*]

JOINT SELECT COMMITTEE REPORT

(Presentation)

Public Administration and Appropriations Committee

Sen. Wade Mark: Thank you Mr. President. Mr. President, I have the honour to present the following report as listed on the Order Paper in my name:

Twelfth Report of the Public Administration and Appropriations Committee on an examination into the Accessibility and Availability of Diagnostic Imaging Services at Public Health Institutions in Trinidad with specific reference to Regional Health Authorities under the purview of the Ministry of Health.

1.45 p.m.

URGENT QUESTIONS

Caroni River

(Illegal Dumping of Oil)

Sen. Wade Mark: Thank you, Mr. President. To the hon. Minister of Energy and Energy Industries: In light of claims of the illegal dumping of oil in the Caroni River, which would have a negative impact on the country's eco-system, can the Minister indicate what immediate measures are being taken to address this situation?

Mr. President: The Minister of Finance.

The Minister of Finance and Acting Minister of Energy and Energy Industries

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(Hon. Colm Imbert): Thank you very much, Mr. President. Speaking as Acting Minister of Energy and Energy Industries, the facts are as follows. Immediately upon being informed of this incident, the Ministry of Energy and Energy Industries activated its protocols and sent officers to the scene where they met with officers from the Environmental Management Authority to commence investigations into the report.

To summarize, what is being done is that a specialist contractor who has expertise in the cleaning up and dealing with oil spills has been mobilized. This is a contractor that would normally work with Heritage Petroleum. And more importantly, the spill was attended to by the Ministry of Energy and Energy Industries, as the Ministry is the lead agency for the National Oil Spill Contingency Plan. So it is the responsibility of the Ministry of Energy and Energy Industries to determine, based on the scale of the spill, whether the National Oil Spill Contingency Plan requires activation at a particular level.

The Ministry also seeks assistance, as has occurred in this case, from oil operators to mobilize oil spill response, equipment and resources to treat with the spill. Specifically, when the Ministry of Energy and Energy Industries and EMA officer visited the site of the complaint, no oil was seen at the alleged location—or the “reported” location is a better word—in Bamboo No. 2.

Accordingly, the officers went further downstream, along with Heritage Petroleum’s staff and Heritage’s oil spill contractor. They assessed the river up to its mouth. Not much oil was seen, just in small pockets with some stained vegetation. Samples are to be taken from areas where the dumping was observed and along the river. The river and shoreline assessment continues, and as of this

morning, very little oil was seen. The Forestry Division has also been contacted to assist with the shoreline assessment.

I want to say at the outset, Mr. President, that the Government takes the question of oil spills very, very seriously, and the Ministry of Energy and Energy Industries will continue with this right through to the end, after the samples have been taken and assessed, to determine the source of the oil, if at all possible, and to take action against the perpetrators.

We are grateful that so far the information indicates that the effect of the spill has not been so severe to cause the activation of the National Oil Spill Contingency Plan at a high level, but we are monitoring the situation and will take all appropriate action.

Mr. President: Sen. Mark.

Sen. Mark: Thank you, Mr. President. Through you, to the hon. Minister, can the Minister indicate what measures will be taken as a result of this particular development to ensure, through monitoring mechanisms, such occurrence or occurrences do not take place in the future?

Mr. President: So, Sen. Mark, the answer to that question is contained in the answer given by the Acting Minister of Energy and Energy Industries.

Sen. Mark: Can I ask through, Mr. President—

Mr. President: Just three second supplementals, Sen. Mark.

Sen. Mark: Yes. Can I ask through you, whether the Minister could share with this Senate, whether the Ministry of Energy and Energy Industries has done any assessment of the quantum or quantity of oil that would have been spilled or dumped in the Caroni River thus far?

Mr. President: Acting Minister of Energy and Energy Industries.

Hon. C. Imbert: Thank you very much, Mr. President. I want to repeat that the Ministry and the Government, we are taking this very seriously. Any spillage of oil in the marine environment causes damage, and it is something that must be addressed in the most serious manner.

The action was taken based on a report. Somebody who is a resident in the Bamboo area reported to the Ministry that a truck, a tanker had dumped oil in the river. However, as I have indicated, when the officers went to the site in Bamboo, there was no evidence, no obvious evidence of any spillage of oil in that location. And they had to go all the way downstream, and they really did not find that much, except at the mouth of the Caroni River, where it meets the sea, there are some small traces of oil. But notwithstanding the fact that it appears, on the face of it, that the amount of oil that was put into the river is not a huge amount, we will treat with this with the utmost seriousness to find out who exactly did this, and take action against the perpetrators.

ANSWERS TO QUESTIONS.

Mr. President: Acting Leader of Government Business.

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Mr. President. There are three questions that qualify for oral answer, and the Government is prepared to answer all. There is one question for written answer and that answer has been provided, and will be circulated.

WRITTEN ANSWER TO QUESTION

Desilting and River Embankment Projects (Details of)

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

Can the Minister provide a breakdown of each of the five hundred (500) desilting and river embankment projects undertaken by the Ministry, including their respective geographical locations, costs and completion dates, for the period October 01, 2021 to April 27, 2023?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

Las Alturas Housing Development (Lack of Potable Water Supply)

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

Given January 2023 reports that residents of Las Alturas Housing Development are in urgent need of water owing to the lack of a potable supply for over one (1) year, can the Minister indicate what measures are being taken to remedy this situation?

The Minister of Public Utilities (Hon. Marvin Gonzales): Mr. President, the Water and Sewerage Authority has advised that Las Alturas Housing Development is supplied with potable water via a two chair tank and pumping system in which WASA supplies the tank farm directly, and the HDC, the Housing Development Corporation, distributes the water from the tank farm throughout the development via a pumping system. It should be noted that WASA's normal schedule for supplying water to the tank farm at the development is on Tuesdays and Fridays, from 12.00 p.m. to 6.00 a.m., on both days.

WASA investigated the complaints of residents at the development and determined that the primary reason for the lack of a potable water supply to the residents was malfunctioning HDC pumps. To solve this problem, WASA and the HDC collaborated, and the HDC repaired the pumping system two months ago. As a result, the residents of the development are currently in receipt of their regular

supply of water as per their normal schedule.

Mr. President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister what plans are there to improve the supply of water to the residents of this particular development on a more frequent basis, from what you have just said, Tuesdays and Fridays only, between certain hours? Is there any plan to address that situation?

Mr. President: That question does not arise, Sen. Mark. Next supplemental.

Sen. Mark: May I go on to 59?

**Paxlovid Antiviral Drug
(Government's Intention to Order)**

59. Sen. Wade Mark asked the hon. Minister of Health:

Given the number of COVID-19 related deaths in January 2023, can the Minister indicate whether the Government intends to order the antiviral therapy Paxlovid, which has been recommended for use by the World Health Organisation in its latest Protocol Advisory?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Mr. President. Equitable access to COVID-19 antiviral therapy remains elusive. In fact, Paxlovid is still out of the reach for many countries around the world, and its availability has been limited thus far to high-income countries like the United States.

In addition, Pfizer's monopoly also means that middle-income countries may be asked to pay up to 10 times more for Paxlovid than a generic equivalent.

It should also be noted that while the drug had emergency use authorization from the US FDA since late 2021, the FDA only granted full approval to Pfizer's oral antiviral COVID-19 treatment, Paxlovid, on May 25, 2023, barely one week ago.

Notwithstanding this, Mr. President, the Government continues to explore

all options as it relates to the procurement of Paxlovid, including through the CARICOM Secretariat where a request was made over year one ago on February 02, 2022, and also bilateral arrangements with international manufacturers. Thank you.

Mr. President: Sen. Mark.

Sen. Mark: I will go on to No. 60.

**COVID-19-related Deaths
(Increase of Pharmaceutical Stock)**

60. Sen. Wade Mark asked the hon. Minister of Health:

Given the number of COVID-19 related deaths in January 2023, can the Minister indicate whether the Government has increased its stock of tocilizumab, methylprednisolone and propofol as recommended by the Report of the Committee Appointed to Investigate the Factors Contributing to Clinical Outcomes of COVID-19 Patients in Trinidad and Tobago?

The Minister of Health (Hon. Terrence Deyalsingh): Yes, to improve the outcomes in non-intubated patients with COVID-19 pneumonia and to make these drugs available to the general population, the Government has increased its stock of steroids such as tocilizumab and methylprednisolone. Stocks of the sedative, propofol, have also been increased. Thank you.

**MUNICIPAL CORPORATIONS (EXTENSION OF TERMS OF OFFICE
AND VALIDATION) BILL, 2023**

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

That a Bill to extend the terms of office of Councillors and Aldermen elected in December 2019, to provide for elections in 2023 and to validate the actions of the said Councillors and Aldermen between 2nd December 2022

and 18th May 2023, be now read a second time.

I have the privilege, Mr. President, today to pilot the Bill brought from the House of Representatives. The Bill is short and comprises five clauses to achieve three principal objectives. One, the extension until the 18th May, 2023 of the terms of office of councillors and aldermen, whose terms expired on the 2nd December, 2022. Two, to provide for elections within three months of the 18th May, 2023. Three, to validate the functions and actions of those councillors and aldermen between the period 2nd December, 2022, and the 18th of May, 2023.

Mr. President, two significant circumstances have promoted the need for this Bill, and deserve appropriate reflection. The first is the mandate of this Government to empower the people of Trinidad and Tobago to improve their lives within their communities. The second concerns an important part of the history of this country, and the considerations which have informed the passage of local government legislation and which serve to lend clarity to the approach which we take today.

As to first, the mandate of this Government is to empower the people of Trinidad and Tobago. The hon. Prime Minister has already placed on the record of this Parliament the amendments introduced in 2020 by this Government to bring about comprehensive reform of the Municipal Corporations Act, 2020. That record exists in the Prime Minister's statement delivered in the House on the 24th May, 2023. Without repetition, it suffices for me to say that as part of my pilot today, I entirely adopt that statement of the hon. Prime Minister as informing our considerations today for the passage of this Bill into law.

This brings me to the second point of importance: the clarity and simplicity of this Bill against the historical evolution of our local government legislation.

That clarity promotes the passage of this Bill today by a simple majority, so that the people's business may proceed, respecting the Government's adherence always to democratic principles, consistency in governance, and respect for due process and the rule of law.

2.00 p.m.

Mr. President, local government in Trinidad and Tobago started in Trinidad in 1927 when Trinidad was divided into eight counties by the Division of Trinidad Act. County councils were established in 1945, with further legislative enactments in 1967 by Act No. 22 of 1967. In the consultations in forming our constitutional ethos and development after independence the topic of local government was addressed by national stakeholders before the 1974 Wooding Commission, as citizens contributed to the drafting of the 1976 Republican Constitution of Trinidad and Tobago. In 1990, Mr. President, the Municipal Corporations Act was brought into force. Throughout, the law governing local government has remained under development, driven in particular by this Government. As we know, further amendments of a novel nature were introduced by the 2022 Act, the Miscellaneous Provisions Local Government Reform Act, No. 11 of 2022.

Mr. President, here we are today therefore with the benefit of the most recent judicial interpretation of the Municipal Corporations Act as amended, pronounced, by the Judicial Committee of the Privy Council on the 18th May, 2023 in the *Ravi Balgobin Maharaj (Appellant) v The Cabinet of the Republic of Trinidad and Tobago and another (Respondents)* case. The Privy Council accepted the Court of Appeal of Trinidad and Tobago's record of the historical evolution of this legislation up to the proclamation of sections 11(4) and 12(5) of the Municipal Corporations Act.

The Judicial Committee has held (a), that the extension of the term of office

of incumbent councillors and aldermen by one year constituted no violation of the Constitution of Trinidad and Tobago. But that, (b), that extension by amendment could not be interpreted as applying to the incumbent councillors and aldermen whose terms expired on the 2nd December, 2022.

Assembled as we are here today, Mr. President, our task today is simple, we accept the ruling of the Privy Council. Every statement by and on behalf of the Government since that judgment has been unequivocal and clear, because this is a democratic Government which respects due process and the rule of law. Mischief makers, Mr. President, would seek to suggest otherwise. But I am confident that the discerning intelligent population of this Republic will not allow misrepresentations to cloud the clarity of the Government's intention. We accept that today we must provide with the clarity that this Bill provides for the period that has run its course since December '22 to the 18th May, 2023, the date of the decision of the Privy Council.

Mr. President, permit me briefly to address a concern which has been put on the record of this House by the hon. Senator, the hon. Dr. Varma Deyalsingh, who appears from recent contributions in this very Senate on the 23rd May to be troubled by the majority of the Privy Council's ruling, as it did. He appears from his remarks to be troubled by the fact that that he considered that this hon. Senate somehow participated in taking away the rights of persons to vote. Mr. President, I ask your leave to reassure the hon. Senator and this House that there exists no reason for his concerns. This Senate can stand proud and hold its head high for that which it did in passing the 2020 Act into law and the subsequent proclamation, which brought sections 11(4) and 12(5) into force in November 2022.

I give this assurance, Mr. President, to the hon. Senator and to this House for the following reasons, one the clarity of that which was effected by the Senate, has

the support of six judges of our higher Judiciary of the nine who pronounced on this matter and this not sophistry, Mr. President. Those six of the nine judges accepted the wisdom and clarity of that which was approved by this august House and the difference which held sway was really only as far as the majority was concerned limited to a question of statutory interpretation of words used in the Bill at the time.

Two, nothing passed by this Senate has violated the Constitution of Trinidad and Tobago and nothing passed by this Senate has taken away the constitutional right to vote of the citizens of this country. All five judges of the Privy Council were unanimous on this, as were the three judges of the Court of Appeal. The very history of Trinidad and Tobago, to which I have earlier referred above, carefully reviewed by our Court of Appeal from paragraphs 46 through 69 of its decision dated 10th February, 2023 for those who wish to take the time to read that illuminating judgment, affirmed in significant measure by the Privy Council is an aid, an interpretative aid in construing the passage of legislation which is accepted by the very Privy Council in one of the cases relied on by the Court of Appeal, when it adjudicated on the Act at the time.

I refer, Mr. President, to case of the *Commissioner of Prisons and another (Respondents) v Seepersad* from this very country reported in 2021 UKPC 13, cited by the Court of Appeal in the Maharaj Case, and the advice of Sir Bernard McCloskey, in these terms:

“...the Board considers that the court engaged in the interpretation exercise must be alert to the historical context of the constitutional instrument in question. It is trite to add that the constitutional provision under scrutiny must be construed by reference to the whole of the instrument in which it is contained.”

Accordingly, Mr. President, three, in its judgment in this local government case, the Privy Council was informed by the historical review of local Government in Trinidad and Tobago, so carefully reviewed by our Court of Appeal and was able for that reason to reject, unequivocally, the main constitutional plank which had been argued by the applicant, Mr. Maharaj, in the case before the High Court and the Court of Appeal in these terms, and I quote from paragraph 20 of the Privy Council majority judgment:

“...on any footing, the absence of any detailed provisions concerning local government elections leads to the inevitable conclusion that a change in the length of the terms of office of incumbent Councillors and Aldermen cannot amount to a contravention of the Constitution. The term for which representatives have been elected is important but an increase by one year in the term of incumbent Councillors and Aldermen does not of itself breach any provision of the Constitution.”

Mr. President, let me be clear, as I have been since I have spoken to and about this judgment of the Privy Council. This Government accepts the interpretation ruling of the majority of the Privy Council, which ruled that the amendments effected by sections 11(4) and 12(5) of the 2020 Act do not apply to the incumbent councillors and aldermen. It is why we are here today to pass this Bill into law, to among other things, provide for an election to take place within three months of the 18th May, 2023. I emphasize what I have said above, Mr. President, by way of comfort and reassurance to the hon. Sen. Dr. Deyalsingh. Indeed Mr. President, it is instructive that the minority in the Privy Council and the majority in the Maharaj case disagreed with the majority on this point of interpretation at paragraph 59, sub-paragraphs one and two in these terms and I quote from that minority judgment:

“The plain language of section 11(4) of the MCA, read on its own and in its context as part of section 11, uses ‘Councillors’ as including incumbents.”

2.10 p.m.

“Both its language and its functional purpose apply to incumbents, for whom election is a past event.

If ‘Councillors’ were to mean only those to be elected at the next election, there would be no statutory provision in the Act at all specifying the term of office of Incumbent Councillors. That is a strange vacuum which construction should if possible avoid.”

Permit me further, Mr. President, in speaking to the decision of the Privy Council which has us here today to refer to an authoritative column written by the nationally respected Dr. Terrence Farrell and published on Sunday 21st, May, 2023 in the *Sunday Express*. And I read from parts of that Sunday column in order to give the reassurance, for the last time, to the hon. Sen. Dr. Varma Deyalsingh that there has been no violation of the Constitution by this Senate because I would not wish the listening public to think that it is only this gentleman at the podium at the moment who holds the view which I now read. And if you would permit me, in the first column of six I quote:

It is certainly true that the majority rules in an Appellate Court decisions. However, dissenting judgments have in many instances proved to be have been correct. Lord Atkins dissent in *Liversidge* is it famous. Sat Sharma’s dissent in judgment in *Sinanan* on whether a person accused of murder could access bail prove to be correct.

Lord Bingham perhaps the finest English jurist of his time and three other judges dissented in *Matthew* which sadly was unanimously reaffirmed by

the judicial committee of the Privy Council in Chandler.

Lord Bingham has also dissented in Surrat.

Dissenting judgment says, Dr. Terrence Farrell, is often quite valuable if nothing else—

And I commend this to the Sen. Dr. Varma Deyalsingh—

...a dissenting judgment suggests that the matter is complex and not susceptible of easy resolution.

Dr. Farrell continues, with your leave, Mr. President:

In a detailed and powerful dissent, Lord Briggs and Lord Kitchen examining the history of the Municipal Corporations Act argued that it was obvious that sections 11 and 12 applied to incumbents. In fact, they point out that the majority's interpretation leads to absurdity.

And in last column of Dr. Farrell's opinion this is what he says:

The dissenting opinion of Lord Briggs and Kitchen in support of an excellent Court of Appeal judgment by Justice of Appeal Prakash Mossai and agreed with by Justices of Appeal Aboud and Lucky, effectively laid to rest the constitutional challenge and the perceived no lack of clarity in sections 11 and 12.

In my respectful view—

Dr. Farrell concludes:

...in this case the minority were right and majority got it wrong. While there are perhaps serious political implications, the majority judgment which drew out both the President and Deputy President of the United Kingdom's Supreme Court has added nothing to our jurisprudence.

If I may continue, Mr. President, I have emphasized the above by way of comfort

and reassurance to the troubled Sen. Deyalsingh.

Mr. President, the compelling reality for purposes of this Bill and until this judgment was delivered on the 18th May, 2023 is that the corporations continued to function lawfully, consistent with the provisions of the Municipal Corporations Act, Chap. 25:04 and supported until then by the unanimous decision of the Court of Appeal of Trinidad and Tobago.

This reality is put beyond doubt in the applicability, if it were needed, of the *de facto* officer doctrine which is summarized in the authoritative text *Wade and Forsyth's Administrative Law* 9th edition 2004 from pages 285 to 286. If I may quote, Mr. President, with your leave.

“The acts of an officers or judge may be held to be valid in law even though his own appointment is invalid and in truth he has no legal power at all.

The logic of annulling all his acts has to yield to the desirability of upholding them, where he has acted in the office under a general supposition of his competence to do so.”

The incumbents in this particular case, the aldermen and councillors, continued in office initially on the basis of the view held by the Government that the proclaimed amendments applied to them as incumbents, thereby extending their terms of office from three to four years. This was plainly not an unreasonable view, Mr. President, held in good faith and particularly since this was also the view of a unanimous Court of Appeal. More directly, the incumbents acted in their offices after the 10th of February, 2023, the date the Court of Appeal decision pursuant to that decision which held on that date that the four-year term applied to them. It is plain therefore that the incumbents acted under the general supposition that they were competent to so to act and the logic of annulling all of their acts has to yield to the desirability of upholding them.

It follows then, Mr. President, that despite the 18th of May decision of the judicial committee, the actions of the incumbents should be considered legitimate in the eyes of law. The incumbents continued to perform their functions and the State duly paid their salaries in exchange for their services. In addition, the wider public received the benefit of those services. Indeed, there is a case to be made that the Government need do nothing to alleviate the uncertainty created by the decision the Privy Council that the term of office of the incumbents expired in December 2022.

Mr. President, this is a responsible Government. There is a good case therefore to be made for legislatively validating their acts. The public interest advantage of doing so is that it removes uncertainty, any uncertainty which has been created with regard to whether the public may rely on their acts and decisions and avoids any continuing uncertainty and indeed any potential for mischievous opportunistic manoeuvres.

I turn now, Mr. President, to the clauses of the Bill. Clause 1 the short title.

“This Act may be cited as the Municipal Corporations (Extension of Terms of Office and Validation) Act, 2023.”

That speaks for itself.

Clause 2 interpretation. In this Act, Mr. President, as amended in the House on Monday the 29th on an amendment which I moved clause 2 reads:

“Councillors and Aldermen mean, the persons who served in the corporate office of the Council during the period December 2nd, 2019 to May 18, 2023.”

The rationale for that clause is that it is intended that this Act to apply to all councillors and aldermen who served in that period 2019 to May 18th, 2023.

Clause 3, the extension of term of office of councillors. It reads:

“The terms of office of the Councillors and Aldermen which expired on 2nd December, 2022 are hereby extended until 18th of May, 2023.”

The rationale, we have already acknowledged, Mr. President, the applicability of the de facto officer doctrine based on public policy. So that this provision is indeed in obedience to the further public-interest principle being introduced, as Latin scholars would say, *ex abundante cautela*. The advantage of doing so is that it removes any uncertainty which has been created with regard to whether the public may rely on their acts and decisions and avoids the possibility of further litigation. Councillors and aldermen are required to represent effectively the interest of the electoral district municipality for which they are elected and deal with constituents’ enquiries and representations.

Councillors work continuously, diligently, and tirelessly to improve the lives of all persons in their communities within the remit of local government. These local government responsibilities include among others public health, municipal police, spatial planning and building inspectorate, disaster management, repairs and maintenance to government schools and specified public buildings, cemeteries, and crematoriums.

Clause 4:

“An election referred to in section 11(1) of the Municipal Corporations Act for the year 2023 shall be held within three months of the 18th of May, 2023.”

The rationale for that, Mr. President, the incontrovertible reality is that the proclamation issued on the 2nd November which brought a small number of the provisions of the 2002 Act into force with effect from the 8th November, 2022, substituted four years for three years as the periods of office of councillors and aldermen. During the currency of the challenges brought in the High Court and the

Court of Appeal, the law remained en force. The Government led by the right Hon. Dr. Keith Rowley Prime Minister of Trinidad and Tobago fully endorses that local government elections must be now held so as to ensure the continuity of life of local government corporations for all persons throughout the country.

This clause provides for the period being within three months of the 18th May, 2023 and that the writs of election shall be issued in due course by the Elections and Boundaries Commission. This ensures that each member of the public can exercise his or her right in accordance with the Municipal Corporations Act and related legislation to participate in the local government election.

Clause 5, and this brings me, Mr. President, to alert this honourable Senate that I will be moving an amendment at the appropriate time. Clause 5 reads:

“Where the Councillors and Aldermen under section 3, exercised the functions of Councillors and Aldermen between the 2nd”—of—“December, 2022 and 18th”—of—“May, 2023, and thereafter exercised the functions Councillors and Aldermen up until the commencement of this Act, the exercise of those functions and all acts or things done pursuant thereto shall be deemed to have been as valid and effectual as if the Municipal Corporations Act expressly empowered them to exercise those functions.”

I should say from the outset, Mr. President, by way of explaining which I will do in more full detail the amendment which I shall move, is that I have reflected since Monday on contributions which have been made to clause 5 and I have benefited from a very illuminating conversation of which I have had with Independent Sen, Dr. Paul Richards which I acknowledge publicly.

The rationale, Mr. President, of clause 5 will be in due course to validate the functions and all acts or things done by councillors and aldermen for the period between the 2nd of May, 2022 to the 18th of May, 2023. The hard work, diligence,

and daily achievements, progression of projects, vis-à-vis the use of plant, machinery and equipment by the councillors and aldermen in these two limited periods are recognized and do not go unnoticed by this Government and are to be validated by this Bill once it becomes law.

In the period between the 18th May, 2022 to the date of the election when called—when that election is called within the prescribed period, the mayors remain in office and that speaks to the continuity that is provided for by section 15 of the Municipal Corporations Act. Local government bodies have several responsibilities which are well known, they are set out, I need only mention a few of them. Construction and maintenance of local roads and bridges, construction and maintenance of minor drains and minor watercourses, local health, general sanitation and rodent control, garbage collection and disposal, development and maintenance of recreation grounds/parks and public spaces.

Mr. President: AG. Attorney General, I think a Senator would like you to give way. Senators, just a reminder, you can raise in your seat and ask the speaker if they would give way.

Sen. Vieira SC: Thank you.

Sen. The Hon. R. Armour SC: I beg your pardon. Apologies to the Senator. Yes, Senator, I give way.

Sen. Vieira SC: Thank you, Attorney General. Just to confirm for the record, so the amendment that you have moved in relation to clause 5, is deletion of the words “and thereafter”?

Sen. The Hon. R. Armour SC: Yes. The amendment which I will be moving is, when you look at clause 5, the words to be deleted will be “and thereafter exercised the functions of Councillors and Aldermen up until the commencement of this Act”.

Sen. Vieira SC: Thank you.

2.25 p.m.

Sen. The Hon. R. Armour SC: That will be the amendment which I will propose. Thank you.

So just to conclude, as I was about to—and I am grateful to Sen. Vieira SC for that clarification. In conclusion, Mr. President, this Bill underscores the Government’s vision for an effective local government system to facilitate the transformation and modernization of local communities to which this Government has been committed. Indeed the policy on local government reform in the Cabinet-approved 2016 policy document states, and I quote with your leave:

“Local government is the democratic representative of communities. It is closer to the people than Central Government and can be dubbed the ‘voice’ of communities. The People’s National Movement will ensure that with the devolution from the Ministry of Local Government, the Municipal Corporations report directly to the Ministry of Finance, particularly on fiscal matters, and are adequately equipped and resourced to provide quality service to their communities and...”—may—“...improve the quality of life for all citizens.”

Mr. President, thank you for this opportunity to provide clarity and explanation as to the purpose and remit of the five clauses within this short Bill, which has significant impact, as part of the package of the Government’s legislative amendments encompassing local government reform. I beg to move.

Hon. Senators: [*Desk thumping*]

Mr. President: Hon. Senators, before I put the question, just a reminder that during the course of the debate if you do have amendments, to please circulate them prior to committee stage through the Clerks of the House.

Question proposed.

Mr. President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: Thank you, Mr. President. Mr. President, I rise at this time to address a very dangerous piece of legislation that the Government has brought to this House, having been exposed by the Law Lords of the Privy Council for their, or I should say in their attempt, according to the Law Lords—and I shall refer to their judgement and ruling later on in my contribution.

It was a clear attempt, and I will demonstrate, by this Government to deny the electorate, the voters, from exercising their rights to elect their own representatives. And no matter how they try to spin it, you could quote Terrence Farrell, you could quote who you want, the reality is that the Government attempted to deny the citizens of their rights to elect, Mr. President, their representatives. You know, I want to also quote a very famous statement by a famous writer known as Sir Walter Scott, in 1808, when he told us, Mr. President:

“Oh, what a tangled web we weave, when first we practice to deceive!”

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, let us be clear, the origins of this Bill that is before us cannot escape the clear intention of the Government not to hold local government elections, when those elections were due on the 3rd December, 2022. And I will tell you why. We are dealing with five clauses, as the Attorney General has said, and what is the essence contained in this Bill? There are essentially five areas that I would like to draw to your attention, hon. President.

The Bill seeks to do the following things: all councillors and aldermen whose terms of office expired in December 2022 shall be deemed to have continued in office until the 18th May, 2023. The other area that the Bill seeks to address is to

validate the actions taken or decisions made by councillors and aldermen between the 2nd December, 2022 to the 18th May, 2023. The third purpose of these five clauses is to provide that the local government elections for the year 2023 shall be held no later than the 18th August, 2023.

And, Mr. President, it is extremely regrettable that when the alternative government, represented by the UNC, puts forward cogent, reasonable amendments to improve the quality of the legislation to ensure that there is no untoward inadvertence, the Government rejects it. So in House of Representatives, an amendment was put, and I am going to put it today, to delete clause 5. The Government rejected that in the other place. But we heard a short while ago from the Attorney General, and Sen. Vieira SC sought to clarify it even further, that he is going to amend clause 5. And he went on to indicate the sections of clause 5 that he is going to amend. Mr. President, it is the same amendment that was put by the Leader of the Opposition in the House of Representatives.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And the Minister, the hon. Attorney General, found no favour, but he tells us a short while ago, he has found favour and he is going to now amend by deleting clause 5, and that was clarified. So why would an Attorney General seek to undermine, and I use that advisedly—all right, let me withdraw “undermine”. But why would he, Mr. President, seek—in a matter that the elected representatives of the people are seeking to hammer out provisions in the legislation to make it good law, why would the Attorney General not support the amendments? Why?

Mr. President, let me indicate why. This debate on local government reform started way back in 2019. It continued when the Parliament was dissolved in 2020 to facilitate the general elections of August 7th. When it came back, Mr. President, it was referred to a joint select committee. We in the UNC proposed—and we

submitted a minority report because we did not agree with the majority report. Mr. President, a debate ensued subsequent to that.

In 2019, when this matter was addressed in the other place, before it was sent to a joint select committee—I want to give you the date, it was on the 26th of June, 2019, *Hansard* page 182—the hon. Leader of the Opposition, with her discernment, given the repeated attempts by the PNM, under Patrick Manning, may his soul rest in peace, postponed local elections not once, not twice, but three times. And because we were aware of the PNM's pattern of conduct and behaviour, the hon. Leader of our Opposition, leader of the next government in this country, put on the record of *Hansard* the following, Mr. President, and I want to quote. Because, Mr. President, there is no doubt in my mind that the PNM sought to deceive the population on this matter of local government reform by extending the period from three years to four years without informing the Members of the Houses of Parliament. The Independent was not informed, the Opposition was not informed.

But later on, the Rural Development and Local Government Minister would hold a press conference in November of last year to tell Trinidad and Tobago that the Cabinet has taken a decision to extend the life of local government by one year. You know what the Privy Council said in response to that? And I will quote for you in a short while. The Privy Council said, in essence, Mr. President, that no Cabinet, no Executive, no Parliament has the power to elect their representatives.

2.40 p.m.

No Cabinet, no Parliament can substitute for the electorate in Trinidad and Tobago, none.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And what the PNM attempted to do by surreptitiously postponing

the local government election through the Minister of Rural Development and Local Government acting on behalf of the Cabinet—Mr. President, let us make it very clear. It is not the hon. Faris Al-Rawi, the Minister of Local Government and Rural Development, that extended the life of local government from three years to four years. That was taken by the Government when in the House of Representatives presenting this report which contained that amendment from three to four years, Mr. President. At no time did the mover of that report, the hon. Camille Robinson-Regis told the Parliament—we searched, we scrutinized with a fine-tooth comb, the contributions of all our colleagues in the House. We scrutinized the contributions of our colleagues in the Senate and, Mr. President, at no time did the Government tell the Senators, Independent Senators, Opposition Senators and in the House of Representatives, same, that the purpose of changing this particular section or word from three to four years was aimed at postponing the local government elections for one year.

Now, if that is not deception tell me what is. Did the Government not know that that was their objective? Because I will tell you why it turned out to be the objective and they misled us, hoodwinked us, mamaguyed us and they arrogated onto themselves the power to elect councillors. They arrogated onto themselves the power to elect aldermen. Democracy is on trial in Trinidad and Tobago. That is what we are dealing with here. And it is not Kamla Persad-Bissessar, it is not Ravi Maharaj, this is a victory for the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: The people saved their democracy from a rogue government—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—that was seeking to hijack and kidnap the people's rights in Trinidad and Tobago. And no Terrence Farrell, no Dr. Terence Farrell could erase

that stain of the Government's attempt to kidnap the rights of the people to elect their own representatives.

Mr. President, let me quote for you. It was on the 26th June 2019, when the hon. Leader of the Opposition in speaking made the following points:

“I would like”—hear what she said, Mr. President.

“I will like us to insert in there, the drafters will help us, except that should not be prior to the expiry date of the present councillors, so in that way we are very clear in law that it will not extend...beyond the three year term, so I think that is something I think is very important.”

The Leader was advising the Government on June 26th, not to make the error by inserting this from three to four years, extend the term and have that extension applied to the incumbent. She goes on, the hon. Leader that is:

“In any event were you to do it that way...it is going to be chaotic, there is no”—new—“way the very complex activity and administrative things that have to be done, can be done in time for that to take place; so that is my first point.

And I make the point, again, I think it is very important for us to ensure that we do not extend the life inadvertently of these councillors.”

That is what was said.

“I make the point that delays have been—there is a poor track record in holding local government elections”—in this country.

So here it is the Leader of the Opposition was telling the Government back in 2019, on June 26th, be careful with that amendment you might inadvertently increase the period from three to four years and inadvertently extend the life of the incumbents, the current councillors and aldermen.

Mr. President, so said so done, so said so done. And you know what is even

more alarming is the hon. Minister with responsibility, at that time he was the Attorney General. And he responded to our Leader at that time by saying and I quote:

“As the Prime Minister says often, poppycock. Absolute nonsense. Because, Mr. Deputy Speaker, we have to be reminded that the hon. Prime Minister said, an election will be called when it is due”—and they thump their desk, Mr. President—“*[Desk thumping]*”

Mr. President what is the reality? The reality is that when the honourable former Attorney General was unceremoniously kicked out, removed from office and the other one who is the current Attorney General replaced him what did we have?—we have two things emerging that you hon. President need to be aware of. The first thing that emerged was a Cabinet Note No. 1935, dated the 2nd November, 2022, brought and the headline is or the heading:

Proclamation of certain sections of the Miscellaneous Provisions (Local Government Reform) Act, 2022. Who brought it? The Attorney General. Who is the Attorney General? The hon. Reginald Armour; Sen. The Hon. Reginald Armour, he brought it to the Cabinet, Mr. President, on the 2nd November and among other things he said, and I quote:

In light of the forgoing, the Attorney General and Minister of Legal Affairs recommends and the Cabinet is asked to approve and agree the making of a partial proclamation by Her Excellency the President to proclaim section 1, 2, 3(b), 3(c)(i), 3(c)(iii), 3(c)(iv), 3(d)(iii) and 3(iv) of the Act to come into operation on the 8th of November, 2022.

The last line, Mr. President, Cabinet is asked to agree.

So our Attorney General took a note, Mr. President, to proclaim only three clauses in the Act to give effect to the postponement of local elections by one year.

Did not the Attorney General study this thing carefully? Is not the Attorney General in a position after he spent \$1.4 billion on 104 lawyers, 110 lawyers. The hon. Attorney General could not bring senior council to advise him on this. So the entire Cabinet is guilty and that is why the case was not brought against the Attorney General alone. The Prime Minister who heads the Cabinet approved this note and took away the rights of 1.1 million electors to elect their own representatives and put it in his hands and in the hands of the Cabinet. So when the hon. Minister of Rural Development and Local Government held his press conference sometime on the 5th or the 7th May and he announced to the nation, Mr. President, that local government is extended, postponed, whatever language he used by one year, the entire Cabinet was found guilty by the Privy Council for taking away—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—the rights of the people of Trinidad and Tobago. So Terence Farrell could say whatever he wants to say, he cannot escape from the fact that he and the rest of them were party to a plot—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—to deny the people of Trinidad and Tobago the right to elect their own representatives. That is a criminal act that this Government committed against the people of Trinidad and Tobago. And do not come here and try to play footsie with the people's interest, Mr. President, this is serious business.

And, Mr. President, today I tell you and I tell the honourable Senate that the democracy in Trinidad and Tobago is on trial. The jury system that the Government wants to abolish will make a decision very shortly—

Mr. President: So Sen. Mark—

Sen. W. Mark:—the same jurors—

Mr. President: So Sen. Mark that road that you are going down is not relevant to what is in front of us right now—

Sen. W. Mark: I know, but it is just an analogy—

Mr. President: No—

Sen. W. Mark: You would allow me—

Mr. President: No, no, no—

Sen. W. Mark: Okay.

Mr. President: No, no, no, that particular—

Sen. W. Mark: Okay, I understand “yuh”.

Mr. President:—road that you are going down is still being dealt with. So it is not relevant to what we have in front of us, I would ask you to come back to the Bill.

Sen. W. Mark: Mr. President, I am guided by you. All I can tell you is that very shortly the masses of people will deliver a guilty verdict on this criminal administration when they go to the polls.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, they could jump high, they could jump low, they wine left, they could wine right—

Hon. Senators: [*Crosstalk*]

Sen. W. Mark:—they could do whatever they want, they cannot, Mr. President, get away from these words from the Privy Council which will haunt them for life. This PNM is like dead people walking towards their political grave right now as we speak.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Dead people walking towards their political grave. That is what the PNM is today.

2.55 p.m.

Mr. President, if you wanted—and Terrence Farrell, my good friend, “Terrence wah wrong with yuh? Yuh gone mad? Yuh gone crazy? Ah studying” if I should continue my friendship. Mr. President, listen to this carefully, here what the Law Lord said about this Government. This Government has been found wanting. This Government has been found guilty. This Government sought to deny—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—the rights of the people to elect their own representatives. And they could say whatever they want. The reality remains that the PNM, under Rowley, the hon. Prime Minister that is, attempted to hijack, kidnap the rights of the people.

Hon. Senators: [*Desk thumping*]

Sen. Mitchell: Mr. President, on a point of order please. 46(4).

Hon. Senators: [*Crosstalk*]

Sen. Mitchell: He continues to—

Mr. President: Please allow the point of order to be raised.

Sen. Mitchell: 46(4). He continues to be very offensive and insulting in his language.

Hon. Senators: [*Crosstalk*]

Sen. Mitchell: Hijack, kidnap and—

Mr. President: Sen. Mark—

Sen. W. Mark: Yes, Sir.

Mr. President:—in continuing your contribution, just temper the language a little bit as you continue on towards the end of your contribution.

Sen. W. Mark: Thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Mr. President, listen what is said in paragraph 33 of their judgment, and this is what will go on the campaign trail. This is what will be taken to the people in local government elections, and you could say what you will or want.

Mr. President, listen carefully. Hear what our Law Lord said. I say thank God—thank God!—for the Privy Council. So long as the UNC is here, the Privy Council will remain here as our highest court.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Without the Privy Council “we dead” in Trinidad and Tobago. Mr. President, listen to this.

“A democratic society will necessarily engage other rights” like “freedom of expression and association, for example — but the election” Mr. President “of representatives for a fixed or maximum period is the foundation on which it is built.”

\And here what the brilliant Law Lords said to us in paragraph 34. It goes on:

“It is inimical to a representative democracy that the representatives are chosen by anyone other than the electorate.”

Mr. President, it goes on:

“It is not for Parliament...”—not even us in the Parliament can substitute for the people.

“It is not for Parliament, still less the Government, to choose the representative. But...the amendments to sections 11 and 12 are construed to apply to the incumbent Councillors and Aldermen, the effect will be that they have been chosen as representatives for an additional year, not...”—

Mr. President, may I emphasize not—“...by the electorate but by the Government, which brought the amendments into force while those Councillors and Aldermen were still in office.”

Mr. President, you see this paragraph 34, tells it all. No Government, no Cabinet, no Parliament, no Executive, can substitute for the rights of the people to elect their own representatives.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So that is why when the Government led by the Prime Minister, and the gang that runs this country call the Cabinet, when they took the decision, Mr. President—

Mr. President: Sen. Mark, there is a point of order.

Sen. Mark: Yes.

Sen. Mitchell: 46(4) please. Constantly he is being vitriolic.

Mr. President: So Sen. Mark, as you continue to wrap up, once again just temper the language.

Sen. W. Mark: Mr. President, I am suggesting to this honourable House that from the 3rd of December right up to today's date—Mr. President, I think today—is it the 1st? Today is the 31st? Mr. President, December, January, February, March, April, May, almost six months the Government took away the rights of the people to elect their own representatives, and that was given to the Cabinet and they used a simple majority in the Parliament which they have in order to pass the legislation.

So for six months, Mr. President, the Cabinet, headed by the hon. Dr. Keith Christopher Rowley, appointed these councillors and aldermen; for six months.

Mr. President: Senator, you have five more minutes.

Sen. W. Mark: Thank you, Mr. President. That is what this is about. And the Government, stark naked at the level of the Privy Council, comes to this

Parliament and trying to use what? Majority judgment in the Court of Appeal. Two minority in the Privy Council. So five is more than three. So five win. That is the kind of argument we are getting from the Attorney General, the arithmetic. But the last time I checked, Mr. President, the Privy Council is the highest court in this land.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And for me, three is more than eight. You want to play numbers? The majority won, three of them, and that is why we are in Parliament today.

We are in Parliament today because three voted in favour of saving our democracy in T&T.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is why we are here today. So, Mr. President, I know that this is a very serious matter and I am very passionate about it. You know why? I am a democrat and anybody who is attempting to undermine our democracy, they have to face me and the UNC.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: “Yuh facing us. We like a bulldozer. Yuh cyah pass”. So understand that. So, Mr. President, I want to make it very clear. We are proposing an amendment, and our amendment is to delete completely clause 5 of this Bill.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We propose it downstairs, they rejected it. We are proposing it upstairs, rejected again. So, Mr. President, it very clear to us we have a dictatorship in the making in Trinidad and Tobago.

And, Mr. President, in closing let me just indicate to you and Trinidad and Tobago, “doh” ever come to the conclusion that democracy has been saved only because of Ravi Balgobin Maharaj, or Anand Ramlogan, or Jayanti Lutchmedial,

or the lawyers who defended us in that place called London. Mr. President, they were just the channel, they were just the tribune. They were fighting for the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So when we call for international observers, it is not Kamla calling for it, it is not Ravi Maharaj calling for it. It is a judgment issued by the Privy Council that this Government sought to hijack, kidnap, undermine, subvert, the democracy of our country.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And because of that, the judgment is telling us we cannot trust the Government and we have to have international observers to make sure the PNM does not rig, does not thief the elections. That is what it is about.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So, Mr. President, what you are afraid about?

Hon. Senator: [*Inaudible*]

Sen. W. Mark: So we are demanding international observers.

Mr. President, I know my time is up, but I want to close by telling the people of Trinidad and Tobago, time is longer than twine. It is only a matter of time. I believe, Mr. President, in my heart, “ah tasting it, ah feeling it”, the people are ready for change and change is coming.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: “We starting” off with local elections and as soon as that is over, general election and the political cemetery is the future of the PNM. I thank you, Mr. President.

Hon. Senators: [*Continuous cheering and desk banging*]

Mr. President: So as much as you may want to support the speaker in your

Bench, there is an established way to do so by dumping the desk. There is no need to shout and raise your voices. Sen. Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira SC: Thank you, Mr. President. This is a relatively short piece of legislation and I hope not to be too long. Essentially, as we have heard from the hon. Attorney General, it has basically three purposes: to preserve or save the appointments of councillors and aldermen whose term of office had been held by the Privy Council to have expired on the 2nd December last year; to provide for elections; and to preserve or save all work established, granted or done by the councillors and aldermen while they were technically out of office since the 2nd December last year. In other words, this legislation is a necessary corollary of the judgment of the Privy Council given on the 18th May, 2023, namely the case of Ravi Balgobin Maharaj against the Cabinet of the Republic of Trinidad and Tobago. That judgment and this legislation are inextricably linked. Indeed the *raison d'être* of this Bill is that judgment.

Now much has been said in Parliament and in the public space regarding the meaning, scope and effect of that Privy Council decision, and I would also share my reflections on the matter for what they are worth insofar as the impact the legislation before us. However, before getting to that I should just like to make a few general observations. First, and I say this with all due respect and deference to the Privy Council, which is our final Court of Appeal, and to Judiciary in general, this case offers a good example of the adage that trials are a lottery.

3.10 p.m.

Meaning that the outcome of a trial or legal procedure is unpredictable and no guarantees can ever be given. It recognizes that the results of a trial may not necessarily reflect the true merits of the case but may have been influenced by

unpredictable factors, such as a witness not coming up to scratch or one getting a judge who just does not see things your way.

In this case, experienced draftsmen, multiple lawyers for the State, the lower court, our Court of Appeal, and two senior Law Lords saw the issues one way, but a majority of three judges in the Privy Council saw things differently. Now, I agree, in the final analysis, the majority view holds sway. There is no getting away from that. Under the rule of law, to which we subscribe, the country must abide with their decision. However, one cannot help but wonder had a different panel been drawn, whether the judgment might have been different. In particular, one cannot help but wonder whether the presence of two Scottish judges in the majority, namely Lord Reed and Lord Hodge had a discernible effect on the outcome of the case.

Now, I say this because when you look at paragraphs 30 to 34 and 40 to 42 of the judgment, they strike me as gratuitous, and I am talking now about the paragraphs highlighting the essential characteristics of a representative democracy and the individual rights enjoyed by each person entitled to vote. They strike me that that apex court, which is the Privy Council, which comprises senior Law Lords of the UK Supreme Court, were sending a signal to the UK Westminster Parliament, which right now is embroiled in heated debate on the Scottish independence referendum, heated disagreement over purpose and effect of referendum legislation and whether a referendum is within the powers of the Scots as a people or whether such powers are reserved solely to the UK Westminster Parliament. Now, my take on these paragraphs is that the UK Supreme Court, the Privy Council, was firing a shot across the bow of the UK Westminster Parliament.

While I do not disagree with the message or the legal learning involved in those paragraphs, it seems to me that those paragraphs are aimed at a wider target

than just Trinidad and the Miscellaneous Provisions (Local Government Reform) Act, 2022. Indeed one wonders if these paragraphs are foreshadowing leanings or concerns of the UK Supreme Court in the event it is called upon to adjudicate on the Scotland Act, 1998 and renewed calls for Scottish independence in the wake of Brexit. Consider, for example, the wide ambit of the following dicta at paragraph 42:

“The fact that the democratic process, and the voting rights of individuals in that process, are derived solely from the statute does not diminish their fundamental importance...”

Agreed. At paragraph 31:

“The essential characteristic of a representative democracy, whether at a national or local level, is that the representatives are chosen by popular vote...all individuals have the right to participate in the popular vote, subject only to specified conditions and disqualifications.”

I agree. At paragraph 32:

“The rights conferred by a democratic system of government are not only individual rights enjoyed by each person entitled to vote. It is also the rights of all members of the relevant community to be governed by representatives chosen democratically, whether or not individually they are entitled to vote or have exercised that right.”

I agree. And at paragraph 34, cited by Sen. Mark earlier:

“It is inimical to a representative democracy that the representatives are chosen by anyone other than the electorate. It is not for Parliament, still less the Government, to choose the representatives.”

Now, my conjuncture may be unfounded, but whether one agrees with me or

not, it cannot be disputed that the dicta I have just cited represents a warning, not just to this Parliament, but to all Parliaments in the Commonwealth, not to play fast and loose with voting rights and democratic processes and not to make decisions pertaining to representation on behalf of citizens. Whether such dicta were even necessary in this case given the circumstances, I leave as an open question.

Given the court's findings that the Miscellaneous Provisions (Local Government Reform) Act did not breach the Constitution, I think this is very important to take on board. The court found that the legislation did not breach the Constitution, and I am going to quote.

Hon. Senators: [*Desk thumping*]

Sen. A. Vieira SC: Paragraph 16:

“The Board...”

—which is the Privy Council—

“The Board can deal briefly with the...”—appellant, which is Mr. Maharaj, the appellant’s—“...submission based on the Constitution, which must in our view fail.”

Paragraph 35:

“Given that the application of the amendments to incumbent Councillors and Aldermen would not alter rights guaranteed by the Constitution, it is clear that it is within the legislative competence of Parliament to make the amendments, if that were their effect.”

This is the majority speaking:

“...it is clear that it is within the legislative competence of Parliament to make the amendments, if that were their effect.”

Paragraph 53:

“...nothing in the Constitution of Trinidad and Tobago prevents Parliament altering the term of office of elected local government officeholders from that in force at the time of their election, whether by extension or abridgment, or prevents Parliament from thereby altering the periodicity of local government elections.”

Clear. Nothing in the Constitution prevents Parliament from doing what it purported to do with that legislation.

Indeed the major commotion insofar as the majority were concerned had to do with statutory interpretation and what they considered legislative drafting best practice. So in the event, it is not that there was a breach of the Constitution or that this Parliament could not pass legislation extending the period of office for councillors and aldermen. What troubled the majority of the court was whether the extension of four years applied to the incumbents, because if it did, then in the view of the majority, that was not sufficiently made clearly in the legislation.

So in the view of the majority, the legislative language needed to be clearer, that is to say they wanted to see express provision in the Miscellaneous Provisions (Local Government Reform) Act, 2022, that the term of office for the incumbents shall be deemed to continue for the additional period. So far as the majority was concerned, if that was the legislative intention, it could not be implied or inferred.

Now, as stated at paragraph 55:

“...subject to the need for clarity, this is a question of statutory interpretation to be resolved in the usual objective basis, that is, divining the meaning of the language used by appropriate reference to its context and purpose.”

And that is consistent with the famous dictum of Lord Reid. This Lord Reid is R-E-I-D, not R-E-E-D who is one of the Scottish judges in the recent Privy Council decision, but Lord R-E-I-D in *Black-Clawson International Limited v Papierwerke*,

a 1975 decision, and he said that:

“We often say that we are looking for the intention of Parliament, but that is not quite accurate. We are seeking the meaning of the words which Parliament used. We are seeking not what Parliament meant but the true meaning of what they said.”

In other words, the search is for the objectively manifested meaning, not for somebody’s unexpressed state of mind. So accordingly, on the basis of this apparent lack of clarity as to whether the changes were to apply to incumbent councillors and aldermen and what seemed to be a lack of transitional provisions, three out of five judges as a matter of statutory construction—and bear this, they are going down statutory interpretation but at the same time recognizing, at paragraph seven, that:

“The municipal corporations are tasked with a wide range of duties, many of which are essential to the proper functioning of their areas.”

So they recognized the importance of the municipal corporations and for them to be kept alive, but we are dealing with this bit of statutory interpretation. And three out of five judges take the view that the amendments were not intended to apply the incumbent councillors and aldermen, and that is the knob of the decision. They looked at it and they said, “Well, you know what, when we looked at all of this and it is not expressly worded, we do not think that this legislation actually applied to the incumbents”. And three out of five judges took view that if Parliament had intended to give Government such a power, it is reasonable to expect it would be done so expressly.

Now, my personal view is that this seems a case of legalistic hair splitting. In any event, I agree with Lord Briggs—Lord Briggs’ dissenting opinion with whom Lord Kitchin also agreed, and this is what they said:

“...the plain purpose of...”—the legislation—“...was to extend the term of office of Councillors and Aldermen from three years to four years...”

That was the plain purpose of the legislation. However, that is now water all under the bridge. The reason we are here today is not to rectify an egregious attempt on the part of Government to breach constitutional rights. It is not to rectify an attempt to kidnap the rights of the people to elect their own representatives as alleged. The reason we are here today is to correct what has been held by the Privy Council to be a drafting error. In effect, an error of omission.

As the Bill declares, this is a validation Act. It validates the extension of terms of office for councillors and aldermen in our municipal corporations to cover the period when their terms were held to have ended on the 2nd December, 2022 and the judgment of the Privy Council given on 18th May, 2023, and to cover the period between the date of that judgment and commencement of this legislation. This Bill also addresses the lack of transitional provisions bemoaned by the majority, in that provision is now made at clause 5 that all work done by the incumbent councillors and aldermen during the period under contention shall be deemed valid and effectual.

In other words, and I have to agree with the hon. Attorney General, in addition to de facto officer doctrine he obliquely referred to, or the evidential maxim *omnia praesumuntur rite et solemniter esse acta* which posits that all acts of an official nature are presumed to have been done rightly and regularly and persons acting in public capacity who were duly appointed and authorized to act are presumed to have acted lawfully until the contrary is shown; in addition to these relative doctrines and maxims, out of an abundance of caution, this Bill expressly preserves or saves the work done by the councillors and aldermen through transitory provisions at clause 5. In other words, this legislation will

protect things properly done during the interim period.

Mr. President, this is not dangerous legislation. It serves a useful purpose. It is necessary and it is proportionate.

I do not see how we cannot support it.

3:25 p.m.

Hon. Senator: [*Desk thumping*]

Sen. A. Viera SC: The Bill provides the clear intention of Parliament called for by the Privy Council. And as to whether the Privy Council's judgment is a victory for democracy, or an expensive lesson on best practice for legislative drafting when transitioning from one statutory regime to another, I am inclined to believe it is more a case of the latter. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: The Minister of Rural Development and Local Government .

Hon. Senators: [*Desk thumping*]

The Hon. Faris Al-Rawi (Minister of Rural Development and Local Government): Thank you, Mr. President, I believe it is the first time I am addressing you as Mr. President, may I take this opportunity to do so with great compliment to that chair, Mr. President. Mr. President may I ask, how long speaking time is in the Senate?

Mr. President: Forty minutes.

Hon. F. Al-Rawi: Forty minutes? Thank you Sir. Mr. President, I rise to join in contribution to this debate to underwrite the views of my colleague the hon. Attorney General, and to also join with Senator Viera, who had—not unusually—

much of the same content of reflection that I wish to put onto the record. Mr. President, the Bill before us is a validation Bill to become a validation Act. And validation Acts are not uncommon in the Republic of Trinidad and Tobago. Indeed I have in my own tenure in this Parliament contributed to Validation Acts in this Senate, certainly in relation to the Tobago elections et cetera, we did so. Validation Acts are standalone pieces of law.

So, hon. Members will notice that we are not dealing with amendments to the Municipals Corporation Act, we are dealing with a validation Act. Why are we required to deal with a validation Act? The crux of the validation is to be found in section 5 of what will become the Act clause 5 of this Bill. The hon. Sen. Mark made the submission that they wish to delete all of clause 5, I dare say that hon. Members should just be conscious that that is the gravement of what we are required to do, it is in clause 5.

Clause 5 quite simply, seeks to make normal what was legitimately in progress. What do I mean? There was a decision of the High Court, which was upheld by the Court of Appeal, and the Court of Appeal said that the effect of making councillors four years in their term was lawful, and that therefore councillors and aldermen could proceed for four years. That four-year period would have ended in December 2023, specifically December 1st. The Privy Council by its majority decision, has held in a split but nonetheless by way of a decision which is binding upon us, that implementing a four-year term is not to be viewed as applying to incumbent councillors and aldermen. In other words then, they interpreted the law to say those who came in as three-year people, those

aldermen who were appointed as three-year people, they will continue as three-year people and will not be converted into four-year people, because in their view, express language had to be used to bite them.

This was not an easy decision nor was it one in respect of which there was unanimity of advice, or reasoning. And I want to take you immediately therefore, to the judgment of the Privy Council, this is the case of *Ravi Balgobin Maharaj (Appellant) v The Cabinet of the Republic of Trinidad and Tobago*. And I would like to point out to hon. Members what starts off in the dicta of the minority judgment. And that is with your leave, Mr. President, if I take you to paragraph 59. Paragraph 59(6) says this, and I want to say this in answer to the hon. Sen. Mark, I quote:

"6) There is no basis for reading the MCA as a whole as a hostile environment for the extension of the terms of office of elected local government officers beyond that in force when they were elected. On the contrary, Parliament has done so by amendment of this very Act on numerous occasions during its life to date."

So the Privy Council in its own dicta which according to Sen. Mark, shall haunt Trinidad and Tobago forever, the dicta of the Privy Council says that this is not the first time that life extension, for councillors and aldermen is being engaged. If you look to section 11 of the Municipals Corporations Act, section 11(1) says how you are to come into office. It says that the life of the persons as councillors shall be three years. It says that the life of the council shall be for three years and shall expire three years after they were elected. And that an election shall be held within

90 days after the expiry. Section 12 deals with aldermen, but if you look to section 11 you will see the history of extensions of lives of councils by aldermen and councillors.

If you look to section 273 of the Municipal Corporations Act, you will also see that they have been interim or transition sections inserted into the law to treat with life of councils. Now what does the Privy Council decision tell us? The Privy Council decision tells us as Sen. Viera so capably and ably put onto the record, that the majority of the Privy Council, and the minority of the Privy Council, both agreed with the Court of Appeal and the High Court of Trinidad and Tobago to say that there is no breach of any constitutional right by the amendments which were proclaimed. No breach.

Hon. Senator: [*Desk thumping*]

Hon. F. Al-Rawi: What they say they say—the majority—is that we are to accept that Parliament's intention was not to extend the life of incumbents. They say that express language should be done, it was not a decision which everybody agreed with, but it is the majority decision. So what this law represents for us as Sen. Viera so capably put, is a corollary step that we must take following the judgment. But I would like to submit that really and truly there is a fourth purpose that we must have our eyes on.

You see the Bill, by validating the occupation of office in the period December 1, 2022 to May 18, 2023, it does that. That is number one, because those people were not there just because they decided to stay there, they were there because the Court of Appeal said they should stay there. And so did the High

Court, and so did the minority. So that is one. Two, by extending the life to May 18, we automatically kick in the fact that section 11 will now trigger an election, because we know the date for the expiry of their term ended when the authorization of the Court of Appeal ended. The Court of Appeal's judgment was reversed by the delivery, publically, of the Privy Council judgment on May 18.

So their term of office expired, all councillors, all aldermen, expired except a Mayor pursuant to section 15 of the Municipal Corporations Act, whose term of office continues until a new Mayor is elected. And so too arguably, a Deputy Mayor, because a Deputy Mayor acts in office as long as a Mayor is not there. If the Mayor is on vacation, or the Mayor is ill, the Deputy Mayor can come in. So only two office holders continue in office, arguably, certainly the Mayor, the Deputy Mayor in default, after the expiry of the life of the Council.

So the second purpose of this law is to trigger an election. We now know, and the hon. Prime Minister has confirmed it, that an election must be held within 90 days from the expiry of the term office. The expiry of the term of office, the Privy Council, it delivered it on May 18. Three months, 90 days from May 18, in accordance with the Representation of the People's Act, and the Municipal Corporations Act section 11(4)(a) says you must have an election. That is reason number two.

3.35 p.m.

Reason number three, which both the Attorney General and the hon. Sen. Vieira SC put on the record, again, as innocuous as it can be. So extending the life to May 18th, validating their actions up until May 18th and I will come to that in a little bit more expansion, and triggering an election.

But the fourth reason, which the minority judgement in the Privy Council accepted, was that this law must be viewed in context. And when you get to Lord Briggs and Lord Kitchin, they did not fail to see that we were talking about permanent changes to the Municipal Corporations Act in the context of reform. And in the context of reform that is the deciding factor. On November 3rd, 2022 when I was authorized by the Cabinet to inform that the Cabinet had decided to turn on the four-year provision, it was in the context of reform.

What does this judgment do for us? And why are we grateful for this judgement. Paragraph 13 of the majority judgement says this:

“The 2022 Act contains no provision as to whether these changes are to apply to incumbent Councillors and Aldermen. There are, for example, no transitional provisions.”

That is true, but in the context of what the Government wants, which is substantive, significant reform, by putting in new section 33 onward in the Municipal Corporations Act, we are asking for permanent reform to apply now, and we came to the population in November and said, “The Cabinet said we want reform, we are going to take 12 months extra to put on the provisions of reform.” And we were met by a very important argument.

The Opposition, through its political leader said, “You are wrong, call the election now because you can turn on the reforms afterwards.” That for me is the fourth reason is that is most important above all. The issue here is not the grateful clarification of the law, indeed it could have gone in one of the two ways. You could have taken the point of view as a lawyer, let us go and amend the act the way it was done in 2003, 2005, 2007, let us amend the Act. Let us amend section 11, let us amend section 12, let us insert transitions in section 273. But those were transitional. Lord Briggs got it right, we had permanent reforms to put into effect,

and so the Cabinet, in seeking 12 months to put on reform, we were met by a very strong argument coming from the Opposition to say, “No, have that law after you install the new people.”

But here is what the rest of the majority judgment says. The rest of the majority judgment goes on, and in particular, for hon. Members who have it, I would like to refer you to paragraphs 13, 19, 20, 23, 27, 28, 29, 34, 35, 36, 37, 41, 45, 47, 49. Sen. Mark quoted from paragraph 34, a standalone paragraph. Paragraph 34 follows from the Privy Council’s majority saying, look there is no breach of constitutional rights. It goes on to say that the secondary argument, cause the primary argument of the UNC was, “Yuh breaching de Constitution, dah was rejected.” The secondary argument was that the law does not apply to incumbents.

But listen to what paragraph 35 says. Paragraph 35 of the judgment says, specifically, and with your leave if I may quote from it, Mr. President, if my pages will allow me to get there:

“Given that the application of the amendments to incumbent Councillors and Aldermen would not alter rights guaranteed by the Constitution, it is clear that it is within the legislative competence of Parliament to make the amendments, if that were their effect.

The issue is whether, having regard to the context, sections 11 and 12 as amended by the 2022 Act are to be construed as having that effect.”

Paragraph 37:

“The appellant submits that, on a matter of such importance as the democratic basis on which incumbent Councillors and Aldermen have been elected, Parliament must make its intention clear.”

But when we get to the position saying, repeated again in 41, that Parliament

must make its intention clear. When you get, Mr. President, to the rest of the judgement, it says that you must ensure that the amendment which you want to put on clearly are viewed to apply to incumbents. Now, you cannot have your cake and eat it in this case, because the argument of the UNC which found favour in the majority decision, was that look, these reforms do not have transitional provision and they will not apply to incumbents.

If you take that judgment exactly as it is, and you had an election tomorrow morning, and you did not turn on full-time councils, municipal councils, standing committees, the property tax to allow hundreds of millions of dollars to come to local government, by this judgment it will not apply to the councillors and aldermen and corporations comprised tomorrow morning if an election was had. You will have to wait four years for it to take effect. And that is not the intention of this Government. The intention of this Government is to will deliver local government reform.

Hon. Senators: [*Desk thumping*]

Hon. F. Al-Rawi: And what is therefore a further corollary step beyond validation, beyond establishing the date for the time frame of the election, et cetera, the fourth point that I mentioned is getting reform right. So the corollary will have to be that we make an amendment or consider an amendment, which will say that the reforms apply to councils to be installed or whomever is in office when the reforms are turned on. And the big point for the Government therefore is getting reform right.

Now, what are the acts of importance for us there? Let us deal with the fact that not only has the Privy Council in majority and minority reflected on the fact that extensions of lives of councils are not a thing that is never been seen in Trinidad and Tobago before. Permit me to put on the record that in 1968 we had

the first local government election, 1971 we had the second local government election. There was a postponement in 1974 to 1977 because of the Black Power Revolution, as it was called. We had local government elections in 1980 and 1983. They were postponed in 1986 to 1987. They were postponed in 1990 to 1992, why, in the context not only of the attempted coup in 1990, but because there was a significant change in the law. They were reforming the Municipal Corporations Act and the new Act, the 1990 Act, which is the Act that governs us now, that came on in 1990. And who was in power in 1990? It was the NAR at that point, which the hon. Member for Siparia sat in, which many Members of the UNC sat in.

So in the context of reform in 1909 it was okay to extend the life of a council, to postpone local government elections for the bonafides purpose of reform. And in 1990 Municipal Corporations Act was deep in its reform. So too are the amendments to the Municipal Corporations Act, Property Tax Act, and six other laws in the 2022 municipal corporations and other Miscellaneous Provisions Act. These are deep reforms.

Let me put it in to context. In the 2022 Reform Package, we are delivering an amendment to the Property Tax Act. We are saying insert a new 9A in the Property Tax Act. Amend section 10 of the Property Tax Act by section 10 of the Reform Act, you know what that would result in for Tunapuna/Piarco Regional Corporation? \$67 million extra per year going to the Corporation on residential taxes alone.

Hon. Senators: [*Desk thumping*]

Hon. F. Al-Rawi: You know what \$67 million is equal to? Nearly 80 per cent of the money that they get from the budget. So imagine getting 80 per cent more money in that corporation what councillors can do. What does reform ask for? It

asks for mayors to control CEOs, it asks for Corporations to hire, fire, and discipline their own workers. We are talking about constitutional reform for decades and decades. That law—

Hon. Senators: [*Desk thumping*]

Hon. F. Al Rawi:—by amending the manner in which you can discipline your own workers and hire your own workers, is as close to constitutional reform as you will get without a three quarters or two-thirds majority change. You understand the depth of reform that we are speaking about? Where 141 councillors sitting closest to people, walking amongst people, can make decisions to spend money for the people from moneys earned closest to them.

These are not simple reforms that we are turning on. And therefore there is a proportionality satisfaction that we have delivered by saying, reasonably since November 2022, since July 2022, since April 2022, when we said we want to deliver reform. Are we guessing what the reform is? No. We know it in black and white as the municipal corporations amendments contained in the Miscellaneous Provisions (Local Government Reform) Package 2022. We know it in black and white.

They are reasonable. They are deep in structure. They are far reaching. They [*Inaudible*] for the benefit of people. They satisfy the conditions of proportionality because the legitimate aim is solid. They do not go much further than they need to go, and they are rationally connected with the purpose of the law. Those are the three basic grounds of proportionality and reasonableness to justify simple majority passage of laws. You remember hon. Senators, there was a time, “We will get yuh, we will overturn yuh laws. Yuh only know about Surat. Yuh cyah talk bout nutten. All ah all yuh simple majority laws will fall.” Where are they now?

Sen. Lutchmedial used to be leading that charge up and down Trinidad and Tobago. “Faris, all yuh laws go fall.” Until Suraj came along, until Suraj came along and upheld the Suratt principles, and upheld quite importantly to hon. Members of this Senate, all the laws that we pass on a simple majority basis. All.

Now does this give the UNC much pleasure? No. Are they entitled to exercise the democratic principles of objecting? Yes. Can they reinvent their words? Well, surely they can. They can put a spin on it all they wish. But the deeper reform that we are looking at here is that this was a statutory interpretation claim. And I think, Sen. Vieira, if you read, through you, Mr. President, if you read into what geopolitics looks like and you look at Scottish referenda in many different senses, and you look to the social fabric construction that the Privy Council is engaged in, I too share the view that you have espoused that the minority decision was correct, and that this may be in preparation as a shot across the bow for other issues. But c’est la vie, as the hon. Attorney General so capably put, this is not the first time that we are going to deal with law evolving, and let me give a real example as to why this Bill is good.

When we look to the fact that there was a time when we challenged the appointment of a Commissioner of Police, an Acting Commissioner of Police. There was a statutory interpretation on a Legal Notice. That Legal Notice turned out to be 100 per cent correct according to the judge. Hear, Jayanti, hear Sen. Lutchmedial, “Yuh loss. Go back and read nah.”

The fact is that the court upheld the thing which was challenged. What the court struck down was another Legal Notice, Legal Notice 103 of 2009, which said, all of those acting appointments that you made for Commissioners of Police who were going out of the jurisdiction and somebody acted for two days and three days, all of them needed to come to Parliament.

The Leader of the Opposition acted on that hundreds of times. The law came along, it was changed, it was interpreted. There was a new reflection. If you look at Chandler upholding Matthews, but Matthews itself represented a reversal of the Privy Council on the death penalty matters. Matthews came along and reaffirmed that the death penalty in Trinidad and Tobago was lawful. So the law is a living breathing thing.

Section 54 of the Constitution, section 53 of the Constitution, the enshrined rights. If you look at what we are treating with, this Government has to make do with what it has. It only has a simple majority. It cannot rely on the UNC for an ounce of support on anything—

Hon. Senators: [*Desk thumping*]

Hon. F. Al Rawi: —that is deep in structured reform. We would like to give more. We would love to put local government in the Constitution, but that will require three-fifths, three-quarters, and two-thirds majority because we will be affecting some rights that are enshrined in section 54.

3.50 p.m.

And yet these are the same people that stand up and say, “Well, why you did not put local government in the Constitution?” Because you, the UNC, would not agree to a single amendment that requires constitutional majority.

Hon. Senators: [*Desk thumping*]

Hon. F. Al Rawi: And therefore, Mr. President, what is shocking is the revisionism, the “make it up as you go”, the allegations put by Sen. Mark, a thrill point—but I have to tell you I enjoyed seeing Sen. Mark in full flight again. I missed hearing his contributions, personally.

Hon. Senators: [*Laughter*]

Hon. F. Al Rawi: When we listened to Sen. Mark say, “Democracy is gone and it would haunt you forever”, well, I want the whole judgment to haunt me, not part of the judgment you choose to read. The whole judgment says, there is a difference of views.

When you start off, as Lord Briggs does, he says, he is not pleased to disagree with the majority but he must. And worse yet, when Lord Briggs goes on to say that, in effect, you are constructing an argument or principle in a vacuum. As the judge said, those are not light words. But hon. Senators, what I am putting on the record now is that the most important objective is local government reform. That is the job that I was given. It is why I am standing here today in support of this legislation, because the reform is the context in which the validation comes. It is the context in which the proclamation of the quadrennial period came about. It is the context as to whether it applies to incumbent councillors or not, because unless we take a hold of the corollary steps to be engaged in after this judgment, well then we are not going to deliver what we promised and what we have a mandate to do, which is to deliver local government reform.

Mr. President, what are some of the things that we wish to validate? So for those people who are paying attention, through you, Mr. President, the life of the council came to an end on 18 May, 2023. As I have said before, section 15(2) of the Municipal Corporations Act keeps the mayor alive until a new mayor is sworn in. The deputy mayor is kept alive pursuant to section 21 of the Municipal Corporations Act. But what are the things that we need to validate? Why do we need to validate? Well, first of all, we are validating for all. There are 139 representatives—that number was changed to 141 by the EBC. There are 139 people elected in 2019. We had a few by-elections. A number of people in local government moved into central government: the hon. Symon de Nobriga, the hon.

Vandana Mohit, the hon. Kennedy Richards, the hon. Lisa Morris-Julian, the hon. Roger Monroe.

There are several people that moved into the House of Representatives. We had five by-elections, we had one alderman who came in and we had another by-election in 2022, in Debe South, where there was a death and we had to have a by-election. So that is why we say, more than just the people elected in 2019. We have to cater for those other persons who came in in 2021 and that one person who came in, in 2022.

But when we look at this, the acts of the council, there are certain sections in the Municipal Corporations Act that only a council can resolve or treat with. We have section 10(1):

“The powers of a Corporation shall be exercised by the Council...its Chief Officers and staff.”

And chief officers are the aldermen, mayors, deputy mayors, et cetera.

Section 45(1): council to fix an establishment and appoint, discipline, suspend and dismiss employees. Section 46: council to consult with majority union. Section 57(1): council to dispose of personal property used in commission of an offence; 66; 117; 137; 151: council to make rules, standing orders, regulations, by-laws, issue licenses.

Very importantly, section 108: council to submit estimates of expenditure in accordance with the call for circular; 110: council to approve payments into and out of the Mayor's Fund; 112: council to approve unspent balances; 118: council to approve vouchers for payment of moneys; 120: council to approve virements for approval of the Minister.

And it goes on. Sections 130; 131; 132; 136; 138; 142; 162; 163; 172; 175 to 178: council to show an issue, call, stop notices before magistrates; 163 and 168: council to approve building plans pursuant to enforcement; 189; 191, et cetera.

These are the acts that we need to validate. Virements were used, moneys were spent in the disaster relief that we managed in November, when we have significant rainfall and damage. We complied with call for circular, we needed to make sure that the estimates that came in—local government has received the largest distribution of moneys ever in its history under the office that I hold right now in the year that I have held it. Adding property tax to hundreds of millions of dollars means that we bring money inside. But hon. Members, there is nothing wrong with validating the Acts that I have just described. They are grounded in the Municipal Corporations Act.

There is nothing wrong in saying how the trigger for an election will now happen. Three months after the expiry, which was May 18th, clarity of purpose. There is nothing wrong in saying that we should pay our councillors their salaries, their emoluments, their perquisites for the time that they were in office, lest there is challenge.

We are protecting 139 people across 14 corporations. And interestingly, they are split seven/seven; seven to the UNC, seven to the PNM. But if you accept Sen. Mark's submission today, none of them to get protection, not even the UNC councillors. I do not know if this is retaliation and retribution for so many people that are crossing the floor to the PNM.

Hon. Senators: [*Laughter*]

Hon. F. Al-Rawi: I do not know if that is what occupies Sen. Mark's concern? Perhaps it is. Because I saw in the newspapers, somebody attributed as saying, "Kamla go fix you". Is this the way they are going fix you? By saying that you

cannot have validation for your salaries and your terms and your perquisites? Perhaps. It is not the way the PNM would behave, but you must take them at their words, put on the record.

Mr. President, may I ask what time is full time?

Mr. President: 4.06 p.m.

Hon. F. Al Rawi: Thank you, Sir. Mr. President, when we look at the position of extension, I want to remind that on several occasions, when the life of councils were extended, both prior to expiry of terms and after the expiry of their terms, there was the use of something called an advisory council. If you looked to the Municipal Corporations Act, you will see the use of advisory councils. I want you to note, Mr. President, that we are not, in any form or fashion, extending the life of councils beyond the data the expiry and we are not using advisory councils. And therefore, to say that there is some form of subterfuge to continue people on into office, that is not the case. We could have, as historically you will see, used advisory councils, used both by the UNC, the NAR and the PNM in the past. We did not. What we are on about, Mr. President, is reformed.

Are there further corollary steps to be taken? Yes, there will be. Are we no doubt engaged in the process of considering all of these things? Yes, we are. Will the hon. Attorney General bring advice to the Cabinet? Yes. Are we a Cabinet of collective responsibility? Yes, we are. Are there divergent views sometimes on how the law ought to be applied? Yes, there is. Are we safeguarded and protected? Yes, because of the separation of powers and the fact that the court will construe the law. Do we accept the decision of the Privy Council? Yes, we do. Do we accept it for what its real warning is? The real warning is make sure any future implementation you bring out of the reform package is expressly stated to apply to incumbents.

Had we listened to the UNC, call the election, install people and then turn on the law, they would say, “Nah, hard luck. You missed the boat”, come back four years later and then the Privy Council might, if its quorum was the same, have decided that it did not apply to incumbents. And then where would we be? In happiness land for the UNC because all the reforms that we talked about could not be delivered. That is what the real focus of attack is by the Opposition. The focus of the attack of the Opposition is to deny the implementation of local government reform. Is this law with precedent? Yes, it is. This Bill has precedent. Is this proportionate, rational, reasonable? Yes, it is. Does it satisfy Suratt and Suraj principles? Yes, it does.

Mr. President, I do not think that there is much more for me to say and therefore, I thank you for this opportunity to address this august Senate and for allowing me the opportunity to make this contribution. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Lutchmedial.

Hon. Senators: [*Desk thumping*]

Sen. Jayanti Lutchmedial: Thank you, Mr. President, for recognizing me to join in this debate. I must say that I am astounded—

Sen. John: And confused.

Sen. J. Lutchmedial: —and confused and appalled. I was not so confused that I thought I could retrospectively apply laws and put people back in office for a period extended of which they—an extension and longer than they were elected for. But I am confused by a Minister of Rural Development and Local Government who could stand down and try to rewrite history—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: —about the numerous failures of this Government, which we in the UNC have had to take to the court in order to get it fixed and to get it right. This Minister—I mean, I know about the expression, “take shame out of your face”, but they take it to new heights—new heights, when they will stand here today and stoop so low as to dissect the composition of the highest court in our land—

Sen. Mark: Exactly.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: —and criticize and draw inferences about people’s backgrounds, to try to say that that had something to do with the judgments of the Privy Council. Let me tell you something, it does not matter if you are Scottish, Irish, Welsh, German or French, “yuh get licks” in the Privy Council.

Hon. Senators: [*Laughter and desk thumping*]

Sen. J. Lutchmedial: “Yuh get licks”.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: And we are here today on the heels of that licks that we put on them in the Privy Council. Whether it was three, two, four, one, it does not matter, “licks is licks”.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: We have Duckworth-Lewis system in cricket and now apparently we have Armour-Al-Rawi system in terms of judgments—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: —where we are checking judges, and working out a mathematical formula to see if we were very wrong or just a little bit wrong.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: “Yuh wrong. Yuh wrong”. And instead of coming to the population and saying, “We were wrong, we got it wrong, we imposed upon you representation for a period of six months in contravention of the law”—

Sen. John: “Dey counting three and two”.

Sen. J. Lutchmedial:—they are counting numbers and coming up with a formula to say, “We was not really so wrong, you know, we was not so wrong, so that is okay”, and coming here to tout about reform. Well, we will get to that just now and their track record of local government and their track record of reform.

Sen. Lyder: Yeah, “reform coming. New mayor for Sando coming”.

Sen. J. Lutchmedial: They came today to show contempt—

Sen. John: Yes.

Sen. J. Lutchmedial:—for the Privy Council.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: They came here today to show contempt for the citizens of this country as they have always done. And particularly the track record of the PNM is one of contempt for local government and the right of the people to choose their representatives.

Sen. Mark: Yes.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Yes, yes.

Sen. J. Lutchmedial: They have come here today to say things that they directly contradicted, when some of them gave evidence to the court, a sworn evidence on affidavit, contradicting what they said. And I will take my time and go through all that was said in the course of that matter, because I had to—I had the painful experience of having to read it and wondering about the gall of some people who will misrepresent the law.

4.05 p.m.

It is one thing to stand in the Parliament and misrepresent, that is politics, but it is another thing for people who call themselves attorneys and members of the Bar to misrepresent the state of affairs to a court of law, and that is what was done in this case.

So we are here today, yes to validate, and I do not know where—somewhere in listening—that the Minister of Rural Development and Local Government got the fact that we were opposing the payment of salaries to councillors. Every single councillor and alderman, PNM or UNC, is a victim, an innocent bystander of PNM incompetence.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: They are all concerned. They are worried. On the 18th of May they were wondering what should we do, and it took them one week, because as I said before they were left discombobulated. They did not know what to do with themselves.

Hon. Senators: [*Laughter and desk thumping*]

Sen. J. Lutchmedial: “And while dey sit down checking judge” from different levels of the Judiciary, trying to come up with excuses, for a whole week Councillors and Aldermen were left not knowing what to do, what was their status, do we go to work. Nobody knew. The Minister of Rural Development and Local Government was hiding. I thought “dey put him in detention”.

Hon. Senators: [*Laughter and desk thumping*]

Sen. J. Lutchmedial: “All over de place, dey looking for him.” We could not see him for a whole week. It is only when a Cabinet Note showing the population that it was the Attorney General who took “de” Note to Cabinet to speak about the proclamation, somehow miraculously ended up in “de” public domain, that the

Minister of Rural Development and Local Government resurfaced.

“I doh know about dem and dey domestic problems” and what is going on inside of there, Mr. President, but I found it very strange that the Minister of Rural Development and Local Government has, on several occasions that I have heard him speaking to the media continuously making the point, and he made it again here today, that sometimes we disagree on the interpretation of law. So I do not know if this is the Minister’s way of saying that he does not take responsibility for the decision. But at the end of the day, the evidence in this case, the evidence that formed part of this case, was that it was the Minister of Rural Development and Local Government that went to the media and said, “This is how the law is to be interpreted and this is the way we are moving, and we are deferring the election”.

“And dey like to talk about, is de UNC and de UNC.” Several people at that point in time wrote articles, editorials, it is all there, as part of the case, but they cherry pick what they want to come here and talk about. Many people wrote about the fact and questioned whether the deferral of an election, whether it was interpretation or otherwise, was a misrepresentation. But I am here today to tell you that this was no—sorry, was a slap in the face of democracy. But I am here today to tell you that history will show that this was no error of interpretation. This was a deliberate act committed by a government running from the population.

Sen. Roberts: Scared!

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: Running scared, and still running scared—that is why we cannot get the date up to now—still running scared from the electorate, because they have failed miserably, not just on local government, but on several areas. Things which affect people and how they vote.

Just throw your mind back to the time when local government elections were

due, and the councillors had to demit office in December. Go back and look at our newspapers. There was a countdown in every newspaper, “We are heading towards 600 murders in this country”. “Dat had dem frightened”, not interpretation. All “de” talk about property tax. “Dat” had them frightened, that the population was resentful of it, not interpretation.

And we know that it had nothing to do with interpretation, because when the issue was raised in 2019, by the brilliant, honourable, very hardworking, responsible Leader of the Opposition, the Minister of Rural Development and Local Government, before he lost his job as Attorney General, stood up and described such a suggestion as poppycock. But he sat down in a Cabinet and allowed the poppycock to take place.

Hon. Senator: Any relation to lollypop?

Sen. J. Lutchmedial: It is remarkable that the same individual, the same individual who said that it was necessary, when the Leader of the Opposition raised it in the other place, that it would be necessary to put in a clause to ensure that it does not extend the life of existing councils, said, “That is poppycock, as I quote my hon. Prime Minister”. Well what we are here to do today is fix “de” poppycock.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: We are here to fix all of the poppycock that they have done.

Hon. Senators: [*Desk thumping*]

Hon Senator: Not a peacock eh, a poppycock. [*Laughter*]

Sen. J. Lutchmedial: And anybody—and I want to say the Attorney General—and I feel sorry for the Attorney General sometimes, because the Attorney General—

Sen. Roberts: Which one?

Sen. J. Lutchmedial: “De right one, not de one that get fired”—is an experienced public law practitioner. I have had the privilege, and I still consider it a privilege, that in many matters where I was junior counsel to Mr. Ramlogan, the hon. Attorney General appeared on the other side, and he understands the law. He understands public law. And he has come here today to quote an article from somebody who I have never seen in a courthouse in my life.

Hon. Senators: [*Laughter*]

Sen. J. Lutchmedial: I do not know what public law experience some of these people have, but they come to deprecate and criticize the Privy Council, and say that it does not add to our jurisprudence. I really do feel sorry for the Attorney General sometimes, when he has to stand here and rely on these things, and defend what I think he knows to be the indefensible. I believe that he knows better but, be that as it may, he has to do his job.

Hon. Senator: That is debatable. “He no better at debating.”

Sen. J. Lutchmedial: The Attorney General has raised the concerns, which surfaced in the wake of this judgment, by Sen. Deyalsingh, and I want to spend some time talking about that as well. The record will show, when people are speaking about the way that the law was passed and whether Parliament had any role to play in it, this had absolutely nothing to do with the Parliament. The extension of time is valid to people who will be elected. That is what the judgment said.

Instead of only reading *Suratt*, what they should do is pick up a *Bennion on Statutory Interpretation*, and understand that you cannot apply laws retrospectively, that is what the arguments in this case was about. They chose to say—and this was the other argument that has come forward from the Government, in defence of the indefensible, in defence of their loss, in defence of their massive

defeat, costing the population millions of dollars in legal fees.

They have come here to say that we did not breach the Constitution. Since last week sometime in San Fernando, “Constitution, Constitution. Everybody now is a constitutional law expert, and we did not breach the Constitution”. So you believe that not breaching the Constitution makes it okay to take away people’s right to vote out an elected representative.

Hon. Senators: [*Desk thumping*] “Yuh break de law.”

Sen. J. Lutchmedial: And that is why I say, contempt for the population, contempt. In this case, many people will not know because they read a judgment—I do not even think many people “read de judgment”. I think they just read what is repeated in the newspapers. Certainly I think many of them did not read the judgment on that side. But the relief sought in this claim, the relief that was granted, is a declaration that the decision of the Cabinet and the Minister of Rural Development and Local Government—and the Minister of Rural Development and Local Government—“look who dey naming eh”. That is who they name in this. He was named as a separate defendant. The hon. Minister, sorry, was named as a separate defendant in this matter, because it is that Minister of Rural Development and Local Government that telegraphed to the population that this is the decision and this is the interpretation that was put on this law. The declaration granted in this case said that that decision is illegal. Illegal, null and void and of no legal effect.

Hon. Senators: [*Desk thumping*] Repeat that again!

Sen. J. Lutchmedial: Illegal, illegal, null and void and of no effect. There is a difference between illegal and unconstitutional, that is fine, but we have laws in this country other than the Constitution, just like we have cases other than *Suratt*. But that is something that this entire Bench representing the Government in this

place seemed to have missed.

Sen. Nakhid: Teach them. Teach them sister.

Sen. J. Lutchmedial: They do not care if they have to bring poppycock and feed it to the population.

Hon. Senators: [*Laughter and desk thumping*]

Sen. J. Lutchmedial: “Dey rather do dat, than face de licks dat dey will face again when dey go back to the de electorate.”

Hon. Senators: [*Desk thumping*] Oh yeah, oh yeah!

Sen. J. Lutchmedial: In six months that they have stolen to the population, dey running into Cocoyea, Tarouba and Marabella West, trying to do what they have not done in three years. That is what they are trying to do. And so they have—

Hon. Senator: In eight years.

Mr. Al-Rawi: Mr. President, I rise on—

Mr. President: There is a point of order. Point of order, Minister.

Mr. Al-Rawi: I rise on standing Order 46(1), could we at least get to one provision on the Bill?

Hon. Senators: Oooh!

Mr. President: One second, have a seat, have a seat. So Minister what is happening right now is that the Senator is responding to arguments that have been put forward in the debate thus far.

Hon. Senators: [*Desk thumping*]

Mr. President: So what I would guide the Senator in is just to keep it tight, keep it connected to the Bill that is before us, and continue.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: Thank you, Mr. President. You see, the three Speakers before me spent endless time talking about Scottish, Irish, German and French, and

the Constitution, but “dey doh want to hear about de Constitution now”.

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

Sen. J. Lutchmedial: “Dey doh want to hear dat” you do not have to violate section 4 and 5 of the Constitution, and all the Constitution rights, to act illegally, and that is what they did. And no amount of spinning—you could travel around the world and look for everything that you could find, and every excuse you could find, and criticize who you want, the law as it stands today in the Republic of Trinidad and Tobago, is that the Government of Trinidad and Tobago, acting through the Minister of Rural Development and Local Government, acted illegally.

Hon. Senators: [*Desk thumping*] Illegally, unlawfully!

Sen. J. Lutchmedial: Now, if we want to get to the issue of this Bill and what it is intended to accomplish, it is very simple please, Mr. President. And the learning from the Privy Council is very instructive. We must not interfere with voting rights. You must not interfere with voting rights except by clear and expressed language. Again, what makes this attempt to slip through the back door and extend the life of councils and run from the electorate, even more horrendous and despicable, is the fact that the model existed plain as day—plain as day.

The hon. Minister took his time to go through all the instances when local government elections were deferred. From when we had Black Power to “ting”, to NAR, to everybody. And three times under Mr. Manning, their own party, and the manner in which it was done by someone who had respect, at least for the Parliament, is to come straightforward. And I give Mr. Manning some credit for that. He did not try to hide—he did not try to hide and deceive the Parliament. He came straightforward, laid a Bill in the Parliament and said, “We are putting off the election because we want to”—and I will borrow the phrase of the Minister—“turn on reform”. At least they were honest and straightforward, unlike this Government

that tries at on every turn to deceive.

Hon. Senators: [*Desk thumping*]

Sen. Mark: “Deceive de people.”

Sen. J. Lutchmedial: But thank God for the UNC, and thank God for Kamla Persad-Bissessar, they were not permitted to do that.

Hon. Senators: [*Desk thumping*]

Sen. Mark: The UNC saved democracy.

Hon. Senator: Again.

Sen. J. Lutchmedial: So if they wish to come now and bring amendments to say that when turn on the reform it will apply to the sitting councils, well do that—do that. For once try to be straightforward and say what it is you are trying to accomplish. Nothing is wrong with that. The Minister acts as though that is some great difficulty that they would experience. As though being straightforward and honest and forthright with this Parliament is a difficulty for them.

Come to the Parliament and say that we are having elections when they are due, and as we implement reforms we will try to have them to take effect and to be applicable. Not all of the reforms will affect the councillors and aldermen themselves who were elected. “Have all kinda ting” about burial grounds and all kinds of things in this reform. What is stopping you from doing that, whilst the councillors are elected?

So I say all of this to make the point that this so-called error in interpretation—their error, not the Parliament’s error, so let me be very clear, because we took no part in that. And anybody who wants to help bear that cross with the Government is free to do so, but we took no part in that—none whatsoever.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Six of us, none, none, none!

Sen. J. Lutchmedial: The six of us in here, in fact I think we abstained from voting on that Bill, because there are other things in this reform and this Municipal Corporations (Amdt.) Bill that we do not agree with. We abstained from voting on it. But apart from that, even if we did support the Bill, the interpretation rests solely with the Government, and it is their interpretation.

Just like, and I am responding to what the Minister said—so before anybody jumps up on Standing Orders—the Minister raised an issue of interpretation with the Order that had to do with the election of the Police Commissioner. The Minister then, before he was removed as Attorney General, went to the population and said, “I have all confidence about this clause, that it is true and it is correct. I had the benefit of drafting it”, and so on. And again, it is only when—and leaking seems—dey have more leak than WASA—somebody leaked the opinion that the Government got from Mr. Justice Nelson, that they start to back-pedal, and pedal, pedal, pedal, pedal.

4.20 p.m.

The point of it is that the court found that by trying to avoid the Parliament with acting appointment, and that is what the clause was trying to do but that too was illegal and should not be interpreted that way. So they were getting it wrong again. Go back to another order where they tried to interfere with the process of appointing a Commissioner of Police by inserting the Minister of National Security. We brought a statutory interpretation claim of *Attorney General of Trinidad and Tobago (Respondent) v Harridath Maharaj*, again led by the honourable real Senior Counsel, Mrs. Kamla Persad-Bissessar and Anand

Ramlogan.

Hon. Senators: [*Desk thumping*]

Hon. Senator: That is not polyester, that is silk.

Sen. J. Lutchmedial: Very straight face because I know what is real silk and what is polyester cotton.

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

Sen. J. Lutchmedial: Not even real cotton, polyester cotton. That is real wool, that is real wool.

Hon. Senators: [*Laughter*]

Sen. J. Lutchmedial: And both of them again had to save the democracy of this country by bringing a statutory interpretation for him to show that the way that this Government is intent on continuously interpreting law and making errors of interpretation in a way to achieve their own end and their means, which is to take control and manipulate processes and this case is no different.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: Every time—I think statutory interpretation will now become my core business because—every time they put an interpretation on some piece of law we have to look at the ulterior motive behind it. They always have an ulterior motive and in this case, deferring elections because they could not face the electorate at a time when the country was in total shambles—and we still in shambles, they have not accomplished anything. But the kind of bad publicity and media that was on them and every group and everybody, everybody, everybody was criticizing them on their handling of crime and the only response they could

come up with is a Minister who says, “Well dais not my responsibility.” That was trending in December. That was trending all over the country in December that we have a Minister saying, “Well policy is not my job” and that is why they made this interpretation.

Sen. Mitchell: 46 (1) please, she has now gone irrelevant.

Mr. President: Members, just remember that when one is raising a Standing Order the other will have a seat. I know our procedure is a little bit off because of the COVID-19 and the use of the booths but just remember that that is how we operate, 46(1) is the Standing Order you raised Acting Leader?

Sen. Mitchell: Yes, please.

Mr. President: Okay, so Senator as much as you are responding to arguments put forward before, bring it back to what is before us now. There is no need to continue on with the various examples.

Sen. J. Lutchmedial: Guided, Mr. President. Now one of the things that was touched on by Sen. Mark and the Minister is explaining it by saying, “Well the judgment has now triggered the election and by validating what was done up to the 18th May, it now triggers the end of the term and three month period.” Mr. President, our law caters for that three-month interregnum. Actually it was the 3rd December was the day that elected representatives were returned and that is the date on which their term started and so they were supposed to demit office midnight of the 2nd December. We ought to have had an election within 90 days of the 2nd December. We the people of this country were deprived of that right by this Government. Judgment has come and you know, the Government is not even

eager now to announce when they will correct their sins and allow the population to vote. "They still frighten". They have not even seen it fit. There is a period of 35 days that are required in order to go through all of the processes set out in the Representation of the People Act. And a government that is I would say responsible, a government that acknowledges that they have cheated the people of this country of six months of elected representation would have called an election date already and not wait three months.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: They would not. You see, they are not bound by the three-month period in the Municipal Corporations Act because they throw away that long time. The Government is now saying, "Well, we have three months, we could play with three months". But I want to take you all into this matter again very carefully and talk about this three months. Because prior to the expiration of the term of three months we went to the court and said, "Listen what is going to happen, is that you are going to have people acting in office illegally". So said, so done that is why we are here today.

But the responsible Opposition went to the court and said, "Do not permit them to carry out this erroneous interpretation and defer the election because you are going to create a mess by having people paid, spending money, entering into contracts, et cetera, and you should put an injunction in place and prevent it from happening and ask for an urgent hearing before the court". At every turn the Government objected to that and the Minister of Rural Development and Local Government went on affidavit to explain why that cannot work. I could give the

little war room stories now, the matter is over. Behind the scenes we used to call this the little Chicken Licken affidavit. Because Chicken Licken came to the court and said “Oh god the sky gonna fall down if you do that”. And, I want to know how it is a Minister could now say, “Well now it has triggered three months and we have three months to call an election”. Today, is saying that and in November would have gone to the court and say without councillors as an alderman “everything will mash up and everything will fall down in this country” and opposed. They opposed the grant of an injunction to prevent the illegality from taking place. Because apparently they like illegality, apparently they like chaos, they like to cause confusion. They like to leave people in the country in a state of, you know, we just do not know what is happening. So they permitted, allowed, and fought for the illegality before the court. Let me tell you what the Minister who is now saying “Well we have three months to hold the election” what that Minister said on affidavit. This is sworn evidence given in the matter.

With your leave Mr. President, I will quote from it. At paragraph six of that affidavit sworn in that matter:

Were the sitting councillors and aldermen to be restrained from acting or continuing in their various offices beyond the 3rd of December, 2022 pending the determination of the substantive claim, the operations of municipal corporations throughout the country would be crippled and the corporations rendered powerless and ineffective. This would have a considerably wider adverse public impact.

So from the 18th May and moving forward, nobody being crippled? We argued

that when the term of office came to an end in December there would be—

Mr. Al Rawi: [*Inaudible*] give way?

Sen. J. Lutchmedial: No, I am not giving way.

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

Sen. J. Lutchmedial: I am not. The Minister has put enough erroneous information before this Parliament today.

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

Hon. Senator: Enough.

Hon. Senators: [*Crosstalk*]

Sen. J. Lutchmedial: I will not condone it and allow any more. We went to the court and said that rather than having people illegally occupy office beyond the 2nd December, that the court— In any event the law catered for a three-month interregnum up until March and we should restrain people from coming to work on the 3rd December. That was opposed, it was opposed by the said Minister of Rural Development and Local Government. It was opposed by the Government, acting through their attorneys. They said “That cannot happen”. How could it happen now? How could it after six months later when they have deprived the population of the right to vote in an election that were entitled to vote in, they are happy to wait the three months. Is it now not that they are saying it would have irreparable prejudice if that they could not act?

4.30 p.m.

And we made the argument—the same argument that they are coming here to repeat today, that chairmen and mayors will remain in office and perform their role to ensure that until a new mayor or a new chairman is elected that the

corporation continues to run through its officers, its CEOs and chief public health officers and engineers and so on. They opposed that, but they are happy to wait for the three months now. Mr. President, they have no right to come here and ask for another three months to call this elections.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: They have no right after their illegal—not unconstitutional, but that does not make it any better—illegal act.

Hon. Senator: That is why he is the Minister of—[*Inaudible*]

Sen. J. Lutchmedial:—after their illegal act to come and say, “Well it is okay. We could wait three months to elect a new corporation”. And for three months there would be no councillors and aldermen in office. So what will happen? What will happen? But that just goes to show that they have no problem misleading courts.

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

And that is what was done in this case. They misled the courts. When what ought to have happened, and if we had a responsible Government that had respect for the rule of law—

Mr. Al-Rawi: I rise on Standing Order 46(4) and 46(6). Those are improper motives directed towards me, Mr. Vice-President.

Mr. Vice-President: Senator, as you are about 10 minutes from the end of your contribution, I ask that you tailor your words accordingly. Thank you.

Sen. J. Lutchmedial: Yes, Mr. Vice-President. The truth offends. When—sorry, I lost what I was saying. When—yes. They have no right to ask for these three months. And I want to then get to the issue of this reform.

The Government tries to defend their illegality by saying that what they are concerned with is reform. They wanted the reform. And again, forming part of the

evidence in this matter was actually the announcement made by the Minister of Rural Development and Local Government when he talked about the need to defer this election and the timetable that would be rolled out here. And I am quoting from an article dated August 10, 2022, and the subtitle of this—the title of it is:

UNC local government reps blank crucial meeting.

Because it was so important to them to have a meeting with local government representatives because they were talking about the roll-out and the reforms and so on. Well, nobody is interested in them, what they have to say, because nobody believes anything that they have to say anymore.

Sen. Nakhid: Nothing. Nothing.

Sen. J. Lutchmedial: But under the subheading, “Proclamation timetable”, the Government, through its Minister, stated at that meeting and a press conference held after that meeting, which incidentally the Prime Minister did not attend either, the Minister is quoted as saying:

“In the proclamation timetable, the nine laws which we have amended in the Local Government Reform, those nine laws fall next to be operationalised by proclaiming the laws and saying they will begin to apply. Of the 88 amendments, 54 of them are capable of almost immediate proclamation.”

How many of the 54 have you implemented? In the six months that you have stolen from the electorate, how many of the serious, important local government reform, that you are touting here today that you are so interested in, have you implemented?

Sen. Mark: None.

Sen. J. Lutchmedial: You stole six months away for the population and imposed the representation on them and you did—the Government has done absolutely

nothing for local government reform.

Hon. Senators: [*Desk thumping*]

Sen. Nakhid: Nothing.

Hon. Senators: [*Interruption*]

Sen. J. Lutchmedial: And I go on by quoting again from the article. The hon. Minister said:

“Ten of them will required a month or two to have certain mechanisms put in place; eight of them, three to six months...”

So that is 10 and eight, 18; 18 things that could have happened in the last six months. How many? Not one. Not one.

Hon. Senators: Not one.

Sen. Nakhid: Only talk.

Sen. J. Lutchmedial:

“...16 of them can go on in the background and that can take a maximum of 12 months. But in this particular exercise, we are able to immediately begin the Cabinet consideration of how we will partially proclaim this law. This matters as it relates to a very few core concepts of local government reform...”

And then he went on to say—the hon. Minister went on to say:

“Among the concepts, he said, was moving local government from a three-year to four-year cycle, creating a municipal council”—style—“similar to the House of Representatives and moving the executive council into full-time employment.”

And he went on to speak about full-time employment and, of course, the rollout of the dastardly decision to impose property tax on the population at a time when they are already suffering.

Hon. Senator: We will deal with that on Friday.

Sen. J. Lutchmedial: But we are coming to that on Friday.

Mr. Vice-President, I raised this to show that all of this excuse, all of these reasons, all of this talk and rigmarole about reform and reform and interpretation and it could have—it is poppycock.

Hon. Senators: [*Laughter and desk thumping*]

Sen. J. Lutchmedial: It is pure poppycock.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: And a Minister who knew it was poppycock in 2019 led the charge to impose the poppycock on the population in 2022. And I want to tell him today that if you did not have a strong Opposition, if you did not have a brilliant senior counsel—

Mr. Vice-President: Senator, Senator—

Sen. J. Lutchmedial:—as the Leader of the Opposition—

Mr. Vice-President: You have five minutes remaining.

Sen. J. Lutchmedial: Thank you. If you did not have the UNC standing in defence of democracy in this country—

Hon. Senators: [*Desk thumping*]

Sen. Nakhid: Standing in the gaps.

Sen. J. Lutchmedial:—they would have gotten away with it.

Sen. Mark: Yes. For sure.

Sen. J. Lutchmedial: They would have gotten away with it.

Sen. Mark: Yes.

Sen. J. Lutchmedial: They would have gotten away on this deceit that they try—

Sen. John: And manipulated.

Sen. J. Lutchmedial:—to impose—and manipulation that they try to impose on

the population. Well, I will end today by telling them—everybody likes to come here with a quote. I like movies. I will quote from a movie, one of my favourite movies.

Sen. Nakhid: Quote, sister, quote.

Sen. J. Lutchmedial:

“You have been weighed, you have been measured, and you have been found wanting. Come back when you’re worthy.”

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial: And come back in the polls and show people of this country—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial:—that you are worthy when you talk about reform, because you have been found to be the most unworthy Government to the people of this country.

Hon. Senators: [*Desk thumping*]

Sen. Mark: Call the local government elections now!

Hon. Senators: [*Crosstalk*]

Mr. Vice-President: Members, Members.

Sen. Mark: Sorry. Sorry.

Mr. Vice-President: Members.

Hon. Senator: You all are scandalizing this place.

Sen. Mark: Scandalizing?

Hon. Senators: [*Interruption*]

Mr. Vice-President: Members, I am on my legs. Thank you very much. Sen. Dr. Paul Richards.

Sen. Dr. Paul Richards: Thank you, Mr. Vice-President, for the opportunity to

join this debate on the Municipal Corporations (Extension of Terms of Office and Validation) Bill, 2023. I must say it is actually quite pleasant to be back, able to speak with my colleagues at close range. The booth was quite separating.

Anyway, Mr. Vice-President, you know, our system of democracy—democracy is the system we have adopted as our system of governance and it is a powerful, but at the same time, very fragile institution. Of course, we know the word “democracy” coming from the word “demos”, meaning the people, and “kratos” meaning power. So the democracy can be thought of as power of the people or the way of governing which depends on the will of the people. And one of the most powerful components of a democracy is the will of the people and the ability of the people to choose a government and representatives of their choice. In other words, their vote.

Now, we are gathered here today to debate the Municipal Corporations (Extension of Terms of Office and Validation) Bill, 2023. So there are two important words in this title, “extension”, which we all know what that means, and “validation”. So what is validation? So I did some checking in cursory manner. The action of checking or providing validity or accuracy of something. Another Oxford definition is the action of marking or declaring something legally or officially acceptable. So if we have to declare something legally acceptable, it means there was some sort of doubt or question about its legality, or position of illegality.

So what prompted the need for a validation of the extension of the terms of office of councillors and aldermen? Well, the Government used the interpretation of law to apply to existing councillors and aldermen past December 02, 2022 which was challenged in our High and Appeal Courts and eventually made its way to the Privy Council, which delivered a judgment on May 18, 2023 which

invalidated, in effect, the extensions because of the nebulous language used, in my understanding of the judgment, which indicated the new four-year term of office could only or should have only been applied to incoming councillors and aldermen. Of course, that day was a very red letter day in this country's history. A flurry of press releases and press conferences ensued to avail the population of what the judgment really meant. And it was a day that was very interesting. For the moment, I thought, you know, the hon. Attorney General—and I advised him that I was going to give him political jousting today, so he is expecting it. For a minute, looking at the hon. Attorney General's press conference, I was amazed at his ability and dexterity and agility. I thought he was a gymnast, a verbal gymnast, able to spin words very, very effectively. I think, AG, hon. Attorney General, you could have a career in the sport of gymnastics, given what I saw that day, with the greatest of respect.

I looked at the press conference, like thousands of citizens, and heard the hon. AG indicate that the judgment of the Privy Council was out of the action of the Parliament of Trinidad and Tobago. Well, technically, yes. But let us make no mistake. This interpretation of the law and the subsequent application of the law that gave the Government the belief it had the power to extend the terms of present councillors and aldermen to be included as four-year term is what has landed us here today. This, we know, was a government decision, not necessarily a parliamentary decision, because there are those in the other place and in this honourable House who were opposed to that and they made it very clear, and also persons in civil society. So let us make no mistake. The Government has to shoulder the full responsibility of this situation, and I think they have, because they have brought this Bill to us to rectify the ramifications of that situation which, I think, is a responsible thing to do.

I also, with respect, reject the proposal of my colleague, Dr. Varma Deyalsingh, that this is “a shame on the entire Parliament”. I believe this is part of our evolution, as a relatively young nation, where laws will be tested and judgments delivered in terms of the interpretation and application of the laws. And this judgment, to me, was check on the remit and reach of the Executive, particularly as it regards the calling of elections and the vote of the people, which we should consider sacred, in a timely manner. But I think this is a necessary part of our evolution as a nation and we can rest assured it will not be the last time that interpretations of laws by the Executive and otherwise will be tested in the courts.

I also need to place on the record that in light of the Privy Council judgment, I think the Government has acted responsibly in response to the judgment and brought this Bill to Parliament in quick time to the House of Representatives, last week Friday, and of course now to the Senate, which seeks to validate the actions and decisions of the aldermen and councillors as to ensure their lawful actions and remove even the slightest doubt related to their tenures after December 02, 2022.

I suggest the support for the Bill today underscores our individual and collective commitment to lawfulness despite the origins of the situation. And I think it is a responsible action to take. But even with that said, I wonder if this is the type of start we would have wanted for a new incarnation, a new dispensation of local government in Trinidad and Tobago, one which promises so much change, so many new ways of doing things, brought into being essentially with so much controversy.

One of the extensions given—one of the reasons, sorry, given for the extension, delay, postponement, whatever nomenclature you want to use, for the local government election and the extension of the aldermen and councillors’ tenures was to make provisions for this new dispensation of local government.

And I am passionate about this, Mr. Vice-President, because I had the honour to sit on the JSC related to the local government reform Bill on which so many new proposals and new hope lay, given challenges we have seen in local government over the past 40, 50, 60 years; many changes which are proposed to make local government more effective, to effect devolution of power and to put more gravitas in the hands of local government practitioners. That Committee which was led by former Leader of Government Business and former Minister of Agriculture, Land and Fisheries, Clarence Rambharat, worked for months. The Committee also included now MP, Khadijah Ameen, MP for St. Augustine; Sen. Teemal; I think the Minister of Rural Development and Local Government was on in that, and several others, who painstakingly met with scores of critical stakeholders and deliberated upon provisions that sought to improve the operations of local government bodies, including giving them more autonomy and resolving decades-long challenges in the interest of the people of Trinidad and Tobago and their burgesses.

So I ask the question, and this is the question I am asking, and I hope that somebody on the Government Bench can answer this question, after six months what has been done?

Hon. Senator: Nothing.

Sen. Dr. P. Richards: What has been done to prepare regional bodies, potential candidates and the population for this new dispensation of local government? What can population expect? What are the changes that will happen, in terms of how the population should expect services to be delivered?

4.45 p.m.

We often bemoan the population's apathetic voter turnout in local government elections, primarily because of a lack of understanding in some

measures to the roles and responsibilities and the impact of councillors and aldermen past when we have a flooding issue or when we want to build box drains. But what can the population expect in this dispensation? I am a mirror of the media and I have heard no public awareness campaign. I have heard no information, education disseminated to the population about what they can expect, what new responsibilities councillors and aldermen may have, what new conduits of intervention the population may have. And I think that is a travesty after six months, because know we would be going into a local government election in the next couple months and the new dispensation will start and the population is equally as ignorant as six months ago. What will they expect? And I think, I hope that following or leading up to this, because I know it is campaign season starting now in the run up to when the hon. Prime Minister announces the date, there will be little time for that. But I hope on the campaign trail we can be appraised of what people can expect.

Because in many, many ways, because I was able to have the honour of sitting on the JSC I understand some of the changes, but there are several significant changes in the way things are going to be done and what the population can expect. And if the population does not know what to expect they cannot effectively take advantage of the proposed changes to make these bodies more effective and more accountable. So I think, I am proposing that the public awareness campaign be undertaken as soon as possible so the population is made fully aware of what they can expect, the changes in the workings of regional corporations and bodies and what their representatives are due to provide for them in terms of services. I hope given this controversy that lands us here today we have not squandered the opportunity to reset the public appreciation for local government in this new dispensation, because I think also that would be really a

waste of an opportunity.

I think we have the obligation to raise the discourse, relate it to local government and ensure by our collective action as legislators we bestow the appropriate respect and reverence to local government. That is the only way we are going to have voter turnouts improved. Because if we keep treating local government the way we have, and several speakers before me, through you, Mr. Vice-President, have expressed the instances where local government elections have either been delayed, postponed, extensions made to the detriment of the population. So what we are doing in fact, when we have these types of controversies it is continuing to diminish the importance and credibility of local government in the population, and that could not be good for a population, because local government is extremely important. And if you ask the average citizen, well, who is your councillor? Who are your aldermen? They tell you they do not know. Because unless we have a flooding situation when local government really takes the forefront, or you have the—as someone said earlier on, cemetery cleanings, the market provisions and stuff, what is the population to expect from this situation? So I hope that we can remedy that situation.

Mr. Vice-President, I wonder if it would even cross any mind, any executive member to consider extending the terms of elected members of Parliament in any one of the 41 constituencies. And the answer is no. Because we obviously place a lot lower respect on general elections compared to local election, and we understand why, because in general elections we chose the Executive, the Cabinet. Well we choose the Executive in terms of the Prime Minister, who chooses the Cabinet. But in local government election we still are operating under the paradigm that, well that it is not as important so we do not place the kind of gravitas in it. And I do not think this situation in the last couple months has helped

that cause in any great measure in terms of the public looking on and having a different kind of respect and focus on local government and their participation in local government.

It is interesting that we—one of the reasons that was proffered in terms of the extension and needing more time to put things in place was, of course, all the systems and proclamations that needed to be made. But we transition from one constitutional arrangement in 1976 to a Republican constitution and we had no delay in elections. We had no extension of terms. Elections were called when they were due and that was a much more significant transition constitutionally than this situation that arises here. So we have to ask ourselves again, are we really treating local government with the respect it deserves in Trinidad and Tobago? And is that being translated by us in the Parliament as legislators and quite frankly the Executive in this action that has brought us here today to improving or increasing the importance in the eyes of the population and the gravitas of local government? We have to ask ourselves that question.

We must respect, Mr. Vice-President, our citizens' enshrined rights to vote in the prescribed time in any and all elections in Trinidad and Tobago, all other consideration must fall secondary, barring the threat to life. To me that is the only thing that should delay or prevent an election in Trinidad and Tobago. And maybe this situation may also precipitate a national conversation on the issue of local government elections being formally enshrined in the Constitution, so it is not left up to the machinations of politicians moving forward.

To go straight to the Bill itself, Mr. Vice-President, the only clause I would have identified as having any concern, and the hon. Attorney General addressed it in his presentation, is clause 5, and I will quote with your leave. Clause 5 states:

“Where the Councillors and Aldermen under section 3, exercised the

function of Councillors and Aldermen between the 2nd December, 2022 and 2 18th May, 2023, and thereafter exercised the functions of Councillors and Aldermen up until the commencement of this Act, the exercise of those functions and all acts or things done pursuant thereto shall be deemed to have been as valid and effectual as if the Municipal Corporations Act expressly empowered them to exercise those functions.”

—and I believe that the amendment or the edit proposed by the Attorney General satisfies my concern in that regard, so I thank the Attorney General for his consideration and application of that edit.

In closing, I also would like to echo the sentiments of many in the population, that an election date which we recognize as the sole prerogative of the hon. Prime Minister to provide the population at the earliest possible time, the date for local government election 2023. Mr. Vice-President, I thank you.

Hon. Senators: [*Desk thumping*]

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

Hon. Senators: [*Desk thumping*]

The Minister in the Office of the Attorney General (Sen. The Hon. Renuka Sagrarsingh-Sooklal): Mr. Vice-President, I thank you very, very much for the opportunity to jump in. My intervention is, of course, not going to be very long, recognizing, you know, the contributions made by the hon. Minister of Rural Development and Local Government and of course the Attorney General in explaining to the population of Trinidad and Tobago and of course, this most esteemed Senate on what is the purpose of this Bill that we are here to debate today. But of course I have to jump in because there are certain things to the record I will want to at least place the Government’s position on the record.

Before I do that though, Mr. Vice-President, Sen. Lutchmedial throughout

Sen. the Hon. R. Sagrarsingh-Sooklal (cont'd)

the length and breadth of her contribution she kept saying she is astounded and confused, and believe the Senator. I believe that the Senator is indeed astounded and she is confused, because apparently for a second she thought this was “spread-pal with Moonilal”, and this was not the Senate. You see the Senate requires a certain level of decorum, Mr. Vice-President. The Senate requires a different—a certain level of behaviour. And the way in which they will—

Hon. Senators: [*Interruption*] out of place!

Sen. The Hon. R. Sagrarsingh-Sooklal: Rise on a Standing Order. Rise on a Standing Order, if it is out of place.

Sen. Nakhid: [*Inaudible*] you are out of place!

Sen. The Hon. R. Sagrarsingh-Sooklal: So any way, as I am saying, Mr. Vice-President.

Sen. Nakhid: [*Inaudible*] disrespectful.

Sen. The Hon. R. Sagrarsingh-Sooklal: I am saying, Mr. Vice-President, this is not a—

Mr. Vice-President: Senators!

Sen. The Hon. R. Sagrarsingh-Sooklal:—knock something and a drink something.

Hon. Senators: [*Desk thumping*]

Sen. Nakhid: Go take a [*Inaudible*]

Mr. Vice-President: Sen. Nakhid, I am on my feet.

Hon. Senators: [*Interruption*]

Mr. Vice-President: Sen. John all, all present.

Sen. Nakhid: [*Inaudible*] the disrespect—

Mr. Vice-President: I am speaking!

Sen. Nakhid: [*Inaudible*] no!

Mr. Vice-President: I am speaking! I am asking—

Sen. Nakhid: No.

Mr. Vice-President: Sen. Nakhid I am on my legs—

Sen. Nakhid: [*Inaudible*]

Mr. Vice-President: Sen. Nakhid I am on my legs. If you cannot wait your turn to speak, and in a manner that is deserving of this Senate I would ask you to leave.

Sen. Nakhid: [*Inaudible*]

Mr. Vice-President: This debate is veering down a very emotional pathway, and we are exchanging lots of words and the dynamic of our Senate has changed because of the proximity of the speaking. I ask that everyone here tempers their comments and they live and abide by the Standing Orders, which requires us to speak and behave as Senators. Thank you.

Sen. The Hon. R. Sagramsingh-Sooklal: Thank you very much for that intervention, Mr. Vice-President. I am indeed guided, and that is why we on the Government Bench, and we at the PNM, we are held at a different standard, and of course complying with your advice, Mr. Vice-President, we are going to bring some kind of sober contribution to this debate and be able to debate and relate to the people of Trinidad and Tobago what exactly we are here to debate today. As I said, this is not a knock something and a drink something. It is for us to be able to report to the people of Trinidad and Tobago what is the purpose of the Bill.

We are not here to debate the Privy Council decision. We are not here to debate who poppycock this and who poppycock that. What we are here to debate is a validation Bill, Mr. Vice-President, and that is what, as the Government and in my very simple contribution, what I am going to attempt to do here. You know the Senator also said, and I am going back to her statement that she is confused and she is astounded, and I believe she is confused and astounded, because had she

reminded herself that this is the Senate, and she is a lawyer, that statement that she made—and the Senator said, according to Bennion’s *Statutory Interpretation* “a government cannot create retrospective law”. Madness, Mr. Vice-President! That is erroneous in law. What it says, Mr. Vice-President, and again I believe she is confused and confounded or astounded, whatever she said. In the law, Mr. Vice-President, retrospective laws are in fact possible but shall not apply to criminal matters to sort of double penalize a convicted person. And it comes back to the position, and you are correct, Mr. Vice-President, when you made the statement about us not being emotional and us not taking this debate along a particular path. I believe you. I agree with you a 100 per cent. Because what we are here to do, Mr. Vice-President, is a validation Bill. That is what we are here to debate, not the Monday night forum presentation we were all just privy to.

Mr. Vice-President, and you know I want to make one other comment concerning the contribution made by the Senator. You know she spoke about a chicken, the Chicken Licken, or some affidavit, in reference to the affidavit that was filed by the hon. Minister of Rural Development and Local Government. I would not get into that affidavit, for a length and breadth of this debate much was said about the Privy Council decision, and as the Senator raised the issue about the sky is falling and the Chicken Licken affidavit, in that Privy Council decision, and I want to place it on the record now, there is a—in that Privy Council decision the Law Lords made reference to a particular affidavit made by a UNC councillor who stated on affidavit that he was very disturbed when the term of office was extended because he, personally, did not want to continue working. He did not want to, personally, continue working as a councillor.

And let me tell you what—Mr. Vice-President, respectfully, why I am raising that affidavit, well I am looking very closely and very “cokey eye” at that

councillor because he swore on affidavit saying that he was particularly affected, by of course, when the term of office was extended, he was particular affected, and of course that was a substantial affidavit that formed part of the pleadings that went before the Privy Council. So I am looking at that councillor “cokey eye” from now, and I want to see if when screening start if he offers himself for service. If he offers himself again to be screened, because there is affidavit evidence that speaks to him saying and going on the record before the courts and the Privy Council. Going before the Privy Council saying that he was no longer interested in offering himself for service. So since the Senator raised the issue about Chicken Licken affidavit, I want the hon. Senator to know it have UNC councillors who went on affidavit for that said Privy Council matter, that I am watching them with a “cokey eye” to see if it is they are true to form based on what they would have said on affidavit evidence.

But, Mr. Vice-President, again, taking lead and taking guidance from what you would have just suggested to us, I would just—my intervention and my contribution to this debate is again just to bring us back away from all the emotions, away from all the whatever we just experienced there from the other side, for us to go back to what is the purpose of the Bill that we are here to debate. And as I would have indicated, Mr. Vice-President, the purpose of the Bill is a validation Bill, and I want to go—you know, I heard the hon. Senators, the Senator as well, Sen. Lutchmedial in her contribution, and much of the Opposition, they focused on the press conference that was held by the Minister of Rural Development and Local Government, and what is amazing, Mr. Vice-President, I want to take and I want to place on the record for the people of Trinidad and Tobago, paragraph 98 of the Court of Appeal judgement in this same matter. And through you, Mr. Vice-President, I want to read what that paragraph 98 says.

Paragraph 98 of that judgement said:

Firstly, there has been no challenge to the Parliament's right to amend the Municipal Corporations Act in the manner that it did. The only challenge was to whom it was intended to apply.

5.00 p.m.

“Secondly, there has been no challenge lodged with respect to Cabinet's right to submit for proclamation the amended legislation on the date that they did. Thirdly, the language of the amended sections 11 and 12 does not suggest that it applies only to persons elected to the office of Councillor in the future.”

But the part of this judgment, the excerpt of this judgment that I want to focus on is when the court of appeal at paragraph 98 stated:

“...there has been no challenge lodged with respect to the Cabinet rights to submit for the proclamation the amended legislation...”

And why I am raising that is because they come to the Parliament in this debate and they raised the issue of the proclamation, they raised the issue of the Legal Notice in which the Cabinet made the decision to extend the term of officers, they raised it and when this matter was filed, when this matter was taken to the courts of Trinidad and Tobago by their activist, by their people's champion, there was no part of the pleadings that they brought to court that asked, Mr. Vice-President, or sought to challenge that Cabinet decision or sought to challenge the proclamation of certain sections.

So how disingenuous it is, that you come here and now you speak about the Legal Notice and the legality of the Legal Notice and when you and your activist took the matter to the court, why you did not challenge that proclamation, why you did not raise that as an issue in the pleadings that were filed before the court?

Because they fully well know that the only issue that was for the court's determination was the interpretation of the clauses that were proclaimed and who it could apply to.

So, Mr. Vice-President, I just wanted to also place on the record that excerpt that was taken from the Court of Appeal decision. Mr. Vice-President, again to remove, and agreeing with you, to remove the emotions from the debate and to take us back and to bring us back to what we are here to debate, I just want to spring board out of a comment that was made, or a submission that in passing Minister Al-Rawi, Minister of Rural Development and Local Government would have spoken about, and the simple point was that a validation Bill is not new to our country. And I have to get into this a little bit more because for some reason—well that is the modus operandi of the UNC, “eh”. They making it appear as if the Bill that is here before us today is some way in which this Government, as Sen. Mark would have said, we are trying to hoodwink the population.

Mr. Vice-President, you know, as I would have alluded to, a validation Bill is certainly not new. Minister Al-Rawi would have also stated that. And it is not new to our jurisdiction because we have seen it, for example, Minister Al-Rawi would have spoken about instances where he came to the Parliament and would have passed certain validation Bills. I am familiar too with the Companies (Former-Act Companies) (Validation) Bill, 2002. So there was a validation Bill there. We have the Sugar Industry Control Board (Repeal) (Validation) Act, 2013; that is also another validation Bill that was brought and it was brought in 2013 under a UNC government, Mr. Vice-President. And then we have outside of our jurisdiction, in the region, for example, in Barbados, we have the Land Valuation and Validation Bill. As far as Australia you will have validation Bills.

The reason why I am reading this into the record, I am placing this into the

record, is that I want to start from a place where the population understands that the validation Bill that is brought before this Parliament, which is what we are debating, not a Privy Council decision, what we are debating here is a Bill that seeks to validate certain acts that have already been completed, and more so this validation Bill is not new to our jurisdiction. Mr. President, so as I indicated, validation Bills are no stranger to this Senate and as I said it is certainly no stranger to the Opposition, they themselves having piloted a validation Bill with the Sugar Industry Control Board (Repeal) (Validation) Act in 2013.

Now I want to get into a little, Mr. Vice-President, again, in order for the—and again it is just for the benefit of the viewing and listening public to understand the purpose of the debate, of course, because the Attorney General I believe would have done an excellent job in going through the law, going through the decision of the Privy Council, dealing with those issues. Of course Minister Al-Rawi would have added to the contribution. But I need the public to be aware that this validation Bill again to debunk the UNC's position that for some reason we are here to hoodwink the population, I am here to reiterate to the public that this is not the purpose of the validation Bill that is before us.

So, for example, Mr. Vice-President, I want to go to—I would have mentioned the Sugar Industry Control Board (Repeal) (Validation) Bill of 2013. And what is quite interesting, Mr. Vice-President, is that in 2013 when that particular Bill was debated in the House of Representatives and the Senate there was actually, Minister Imbert, who in the *Hansard* dated the 17th May, 2013, in that particular debated he said:

“All we are doing here today, is authorizing the money, to be deposited into the Consolidated Fund, full stop and to validate all the actions of the various State officials involved with this matter for the last 26 years.

Now, who could object to a piece of legislation like this? You know, so, really if the Minister had not spent his time giving us tales of sugar, we could have been in and out of here in five minutes, because all we have been asked to come and do today is to agree that the \$800,000 that is the assets of the Sugar Industry Control Board that has accumulated over the last 20-odd years, that was paid into the Consolidated Fund, that the act of paying that into the Consolidated Fund was legal.”

And why I took that excerpt from the hon. Minister, now Minister Imbert who was then an Opposition MP at the time, why I take that excerpt is to remind the public this is case on point as to what the purpose of this Bill is here today. We could be very well be over with this Bill in five minutes if we literally stick to what is the purpose of the Bill.

The purpose of the Bill as you so rightfully said is not to go down an emotional trail. It is not for us to prove who better than who or made what mistake, the purpose of this Bill is that we here to validate certain acts that had taken place, we are here to validate the action of our councillors, we are here to validate the actions of our aldermen. That is the mere purpose of what we are here today. And I believe that that *Hansard*, that excerpt taken, Mr. Vice-President, from, as I said the *Hansard* dated the 17th May, 2013, it can also be applied, it certainly is applied to what is the purpose of this debate here today. And I think once as a responsible Senate which I know we are a responsible Senate that we pay attention to what is being debated here today and the purpose of this Bill—we could literally be over with this debate in a very short space of time recognizing again and going back again to the purpose of today’s debate. So I wanted to make reference to that.

You know, Mr. Vice-President, again I will go back and again this is really for the benefit of the public which I really again want to make—where I really

want to focus on in my small contribution. I want to go back to that, when that Sugar Industry Control (Repeal) (Validation) Bill was brought again in the House and Senate. In section 4 of that particular Bill, Mr. Vice-President, and then I will come to our clause 4 and our clause 5 in our Bill. But the section 4 of that, and I make reference to this particular Bill, Mr. Vice-President, because as I said this was 2013 Bill that was passed by the UNC government. And the clause 4 which is section 4, it was clause at the time, the section 4 of that Bill it stated, and if you may allow me to read into the record:

“All acts required to be done under section 4 of the Act which were done or purported to be done after the expiration of six months of the date of commencement of the Act, or were omitted to be done, are deemed to have been lawfully and validly done or omitted to be done and no legal proceedings or other action of any kind shall be entertained in respect, or in consequence, of such acts and omissions.”

And that is what the section 4 of that Sugar Industry Control Board (Repeal) (Validation) Bill of 2013 spoke about.

Now if we compare that to what our Bill—so in this Bill what they were doing in 2013 was giving life and extending the actions or giving time for things that would, as I would have said before, things that would have been lawfully and validly done or omitted to have been done. And that is exactly what, if we turn to our Bill, so this was their Act, if we turn to our Bill that appears before the Senate today, Mr. Vice-President, it says that:

“Where the Councillors and Aldermen under section 3, exercised the functions of Councillors and Aldermen between 2nd December, 2022 and 18th May, 2023, and thereafter exercised the functions of Councillors and Aldermen up until the commencement of this Act, the exercise of those

functions and all acts or things done pursuant thereto shall be deemed to have been as valid and effectual as if the Municipal Corporations Act expressly empowered them to exercise those functions.”

Now I have to read these two simultaneously, Mr. Vice-President, just again just simply for the benefit of the listening public to understand that is the mere purpose of the validation Bill that appears before us today. As in 2013, when the UNC government would have passed a validation Bill under a UNC administration in order to add and legalize, for want of a better word, Acts that have already been completed or deemed to have been done by the Sugar Industry Control Board, similarly, Mr. Vice-President, we are here in 2023 passing, asking for the support for this particular Bill, Mr. Vice-President, to simply be able, again, coming back to what is the purpose of the Bill, to validate the actions of our councillors, to validate the actions of our aldermen, of course coming out which many Senators would have belaboured the point of going through what the judgment at the Privy Council spoke about.

So, Mr. Vice-President, that is one of the points that I wanted to simply read into the record just so that, again members of the listening public who are paying attention that they can certainly understand that this Bill is in no way an attempt by the Government to of course take away rights of our citizens, it is not purpose. The purpose of this Bill is not because—it is simply because we want to make it right. And I cannot understand if a government is here to make something right how that can be deemed as irresponsible. Respectfully, Mr. Vice-President, my submission is that is the sign of a responsible government.

You know, Mr. Vice-President, the Attorney General as well in his piloting of the Bill he would have spoken about the de facto officer. I know he would have gone into detail about the de facto officer. But what I want—my two pence adding

and springboarding off of that point that the Attorney General would have made is to, again, remind the listening public and the viewing public that what we have is that the concept of that de facto officer in our jurisdiction is governed by case law, all right. So there is case law that speaks to what a de facto officer is conceived as.

So, for example, Mr. Vice-President, there is the case of Foundry and Company vs Moffat. And in this particular case Lord Chancellor who was one of the learned Lords in this matter, he referenced, in that particular judgment he referenced the case of the *State vs Carroll*. And one of the dicta, one of the dicta coming out, the dicta coming out of that particular judgment that dealt with the whole concept of the de facto officer was:

“An officer de facto is one whose acts, though not those of a lawful officer, the law, upon principles of policies and justice, will hold valid so far as they involve the interests of the public and third persons, where the duties of the office were exercised...”

And the Attorney General of course in his presentation would have gone through at length what is purpose and what is the meaning of a de facto officer.

What I want to add to that contribution, Mr. Vice-President, and I will start where I began. So I said in looking at the concept on the law as it relates to a de facto officer I said in our jurisdiction that is an area of the law that is governed by the common law. What we are here to do, Mr. Vice-President, with the Bill that is before us today, reminding ourselves, remembering what we are here to debate, what we are doing in this particular Bill is of course now adding the legislative teeth to what the common law speaks about with a de facto officer.

5.15 p.m.

So, yes, in the common law it speaks to officers and it develops the jurisprudence on what a de facto officer is. But what we are here now, Mr. Vice-

President, to do, is to add the legislative bit to the creation, or reiterating that these de facto officers now legislatively—not just via the common law—have the powers to operate. It would be within the parameters of this Bill they now legislatively have the power and would have had the power retrospectively to have made certain decisions. And their actions that would have been completed or conducted can be deemed lawful, not just according to the common law, but now also in accordance to legislation. And that too, Mr. Vice-President, I just wanted to add so that we understand and we come back to what is the purpose of the Bill that we are here to debate, reminding ourselves that the purpose of the Bill, one, of course, I would have mentioned that a validation Bill is certainly not new to our jurisdiction by mentioning, of course, the 2013 sugar board Bill that was passed, which is now an Act of Parliament, by the UNC administration. Our validation Bill is very—yes, of course, it treats with different issues, but it is not different because it seeks to simply validate the acts of officers.

And then secondly, I would have gotten a little into the whole concept of that de facto officer, mentioning for the benefit of the listening public, Mr. Vice-President, that currently in our jurisdiction the role of a de facto or the concept of a de facto officer is governed by common law. And what this Bill seeks to do is to now legislatively, and through legislation, state that these officers, their actions are now legal, not just according to the common law, but now relative to statute, relative to legislation.

You know, Mr. Vice-President, a lot has been said by most on the Government Bench relative to what was the purpose of this Bill. So I will not belabour the point, only to add that, of course, what we are doing here, of course when you look at, for example—and I know Minister of Rural Development and Local Government would have gotten into some significant detail with it. We are

looking at protecting our councillors; we are looking at protecting our aldermen; decisions that were made from acts that were, of course, committed; decisions that were made; salaries that were even received for that period that, of course, the Privy Council would have ruled upon, just basically legalizing it.

So, Mr. Vice-President, I want to remind—I just had to read that and make that simple contribution, again just simply to bring back this honourable Senate and to remind the population of Trinidad and Tobago what is the purpose of the Bill that we are here to debate. Going back to what Minister Imbert would have said in 2013, if we remind ourselves of what our purpose is, this debate could have really been completed in about five minutes because we are here to rectify, we are to validate actions of public officers.

Mr. Vice-President, what I also want to read into the record, and again it is for the benefit of the viewing and listening public, is just that general—it is just for it to form part of the record of this debate because a lot has been said about what we as a Government have not done, a lot has been said about our failed local government reform attempts.

You know, Mr. Vice-President, as the Senate is aware, because most Senators were a part of that debate, on October 01, 2020, of course, this Senate saw the Miscellaneous Provisions (Local Government Reform) Bill, and it was introduced into the Parliament by the then Minister of Rural—well, who was the then Attorney General, who is now the Minister of Rural Development and Local Government, and that is where it started, Mr. Vice-President. As we are aware, and for the purpose of the record, Mr. President, in 2020, the Bill as we all know was sent to the Joint Select Committee on the same day and eventually reported back to the House of Representatives on the 2nd July, 2022. Coming out of that Bill, Mr. Vice-President, we had a report of the JSC which was debated in the

House of Representatives on the 23rd March, the 8th of April, the 23rd May, 2022. And then we had—the 2020 Bill was passed on the 23rd May, 2022, with a simple majority, with the Opposition abstaining.

Now, I am reading this into the record, Mr. Vice-President, to remind the public about the time lag or the timestamping, the process of local government reform. So we remind ourselves that it was only on the 23rd May, 2022, what we had, Mr. Vice-President, was that this Bill was passed with a simple majority, both in the House of Representatives and the Senate. So from the 23rd May, 2022 to our current period, that is the time frame in which, if you have to hold the Government accountable as to what you have done to operationalize, that is the period in which we should be focused on. Because the Bill, Mr. Vice-President, was passed, as I said, on the 23rd May, 2022, and now we are in May—we are in June—we are in May—we are still in May 2023, and within that period of time, from the passage of the Bill to the current period, Mr. Vice-President, we were faced with litigation. We were faced with litigation.

So when the other side asked the question about, “What have we done to operationalize” and “absolutely nothing”, I believe it was critical for me to just briefly go back and timestamp the chronology in which we dealt with local government as a responsible Government, recognizing again and reemphasizing again that this Bill, Mr. Vice-President, it was on the 23rd May, 2022 we had the passage of that Bill and soon thereafter we found ourselves tied up in litigation relative to the—and then, of course, we had the proclamation of certain clauses of the Bill, and thereafter we were tied up in litigation.

So I want to remind the public, when you ask yourself, or if the UNC or Opposition is making, or trying to make an attempt, or trying to place on the record that we speak about operationalizing and we have not done anything, Mr. Vice-

President, I want to remind, again, the public about the period and just to emphasize again when the Bill was actually passed, to the current period, which is now May 2023. And within that period of time—and remember within that period of time—and I know they do not like to hear it—COVID was still very much real. Yes, we were coming to the end of the pandemic, but we still had our challenges there which we cannot get away from, added to which, more significant than even that COVID story, is the litigation that we are placed with; a litigation that, yes, took us all the way to the Privy Council.

And on the point of litigation, Mr. Vice-President, I want to also read into the record that, of course, yes, by Legal Notice No. 206 of 2022, dated the 7th November, 2022, we had sections 1, 2, 3, 3(b), 3(c)(i), 3(c)(iii) and several other sections of the Act were proclaimed. So we had proclamation taking place on the 7th of November. These parts of the Act, Mr. Vice-President, in timestamping the way in which we have dealt with local government, let us also be reminded that it came into effect by the 8th of November, 2022. And then by that time when we had these matters, the High Court matters—so that is on the 8th of November, 2022—by the 30th of November, Mr. Vice-President, we were faced with a High Court decision, because before that time we were in the courts. Upon proclamation, we were in the courts and that is where we had to focus on the litigation that was before us. And it was on the 30th of November, Mr. Vice-President, 2022, we had a High Court decision. And mind you, it is a 33-page judgment that was in our favour as a Government. So therefore, we continued legally operating, as we did, based on the interpretation of the High Court at that point in time.

Further timestamping, what has happened, Mr. Vice-President, from then to now, I want to go to the Court of Appeal decision. So it did not stop at the High

Court. And I am reiterating this because people are going to be asking, “Okay, look how much time has passed. All yuh talking about proclamation. Yuh talking about it has been proclaimed. Yuh talking about operationalization. What have you all done?” I want to remind the public, based on my timestamping of how local government was treated by our Government and what we had to encounter, why probably more of what you had anticipated or hoped to see, what were some of the challenges as a Government, Mr. Vice-President, that we were equally faced with. So I would have stopped at the High Court decision on November 30, 2022, and it did not stop there, Mr. Vice-President. We had by February 10, 2023, the matter was then at the Court of Appeal.

So again, how are we operationalizing when we have a Court of Appeal decision now, when we have a Court of Appeal matter that we had to treat with? The decision came, of course, on the 10th February, 2023, but of course we would have been in litigation, active litigation, on the parts of the Bill that had been proclaimed. And no doubt once you are in litigation what you will find is that, no doubt, it impacts on the manner in which and the haste in which you are able to operationalize legislation. Because, I mean, I think it was one of the hon. Senators—I do not want to misquote a Senator. I think it is Sen. Vieira SC who spoke about litigation really being, I think for want of a better word, it is like a lottery. I think the Senator said litigation is like a lottery; it is either you win the lottery or you do not. And that is the reality. Those of us who are in the courts, we understand that that is the stark unfortunate reality, Mr. Vice-President, of litigation.

So by February 10, 2023, we have a Court of Appeal decision, and that Court of Appeal decision, Mr. Vice-President, is a 42-page judgment that again was in the favour of the Government of Trinidad and Tobago. So even by

February 10, 2023, when the Government continued to act, we were still acting within the parameters of the law, because the Court of Appeal by that time reaffirmed the decision that was given on the 30th November, 2022, and we have a Court of Appeal decision on February 10, 2023 reaffirming that High Court decision. So we have a 42-page judgment now facing us as a Government and we continue to act legally. We continue to operate and continue now, with this judgment before us, continuing the process of operationalizing local government. And then, well, of course, we all know what happened on the 18th May, 2023, and—

Mr. Vice-President: Senator, you have five minutes.

Sen. The Hon. R. Sagrarsingh-Sooklal: Okay. Thank you, Mr. Vice-President. And then, of course, we have the 18th May, 2023 decision which leads us to what is the purpose of the Bill here today. The Court of Appeal decision, of course, you know, speaking to us the importance, assisting us in recognizing that, okay, it was now necessary for us to validate the actions of our councillors and of our aldermen and so on.

So, Mr. Vice-President, I believe it was critical just to briefly timestamp for the purpose again and the benefit of the viewing and listening public to understand from a snapshot—a very brief snapshot of local government, this Government's bringing of local government to the Parliament, and to the point of operationalization, what were some of the challenges that we have been faced with. And now we are here seeking, of course, the cooperation of hon. Senators in us being able—to be able to validate, of course, the actions of our councillors and of our aldermen coming out of, of course, the Privy Council decision that came to us on the 18th May, 2023.

So, Mr. Vice-President, as I would have indicated, my contribution—I did

not intend to be long at all. It is a very, very short intervention, but it was simply just to remind the viewing and listening public of the purpose of this Bill. Certainly the purpose of this Bill, it is not the intention of the Government, Mr. Vice-President, to hoodwink the population. This is not an assassination of democracy. This is not an irresponsible Government, Mr. Vice-President. We acted legally with a High Court decision. We acted legally with a Court of Appeal decision. Yes, as Sen. Vieira SC would have stated, which I totally endorsed, the Senator, that is what litigation is unfortunately. Litigation is like a game of chance, it is game of lottery.

We were not successful at the Privy Council on the 18th May and we are here with a validation Bill, Mr. Vice-President, in order to be able to validate the acts of our councillors, the acts of our aldermen. And with that being said, Mr. Vice-President, again just to reiterate, we do look forward to the support of this honourable Senate, recognizing that our simple purpose today is simply to do exactly as the title of the Bill suggests:

“An Act to extend the terms of office of Councillors and Aldermen elected in December 2019, to provide for elections in 2023 and to validate the actions of the said Councillors and Aldermen between the 2nd of December 2022 and the 18th of May 2023”.

That is our purpose. Our purpose is not here to mislead the population. Our purpose is not here to hoodwink the population. Our purpose here is to comply and to make right, based on the decision coming out of the Privy Council, Mr. Vice-President, on the 18th May. With those few words, Mr. Vice-President, I thank you for the opportunity.

Hon. Senators: [*Desk thumping*]

5.30 p.m.

Sen. David Nakhid: Mr. Vice-President, I thank you for the opportunity to intervene briefly and I would like to go straight into that very unfortunate, vexatious contribution that we all had the fortitude sit through from Sen. Sagrarsingh-Sooklal. I think the Senator, through you, Mr. Vice-President, who likes to talk about the forum and Monday night report, I think she forgot where she was. Maybe she thought she was in a gym at the Hyatt or somewhere amongst her friends with personal trainers from Spain but I think—

Mr. Vice-President: Sen. Nakhid, Sen. Nakhid.

Sen. D. Nakhid: “Ah coming down.”

Mr. Vice-President: Thank you. Just be reminded of your level of response to the speaker, the previous speaker and also the decorum that is necessary. Just, you know, be mindful of it.

Sen. D. Nakhid: I am very mindful and I wish that same courtesy and that same sentiment was extended to the hon. Senator—

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid:—who for two to three minutes launched a personal attack against Sen. Jayanti Lutchmedial, who in her entire contribution showed the shortcomings and incompetence of this Government and launched no personal attack against anyone. And I think it is unbecoming that if you are to respond to a contribution from any Senator, you should respond in kind. You do not need to get personal and this is what the Senator unfortunately did. And I do not like to respond in a personal manner especially against somebody who I think her whole contribution was indeed vacuous and devoid of anything that made sense to this Senate because we had several Senators stand up and say that, okay, you are validating—we know it is a validation Bill but you are validating something that you have clearly gone wrong on, you have made a mistake on, you were warned by the hon. Opposition

Political Leader. You were warned about it, you doubled down on it, you lost. You try to justify that loss with all kinds of equations that until now no one understands and then you come here to the Senate and you double down again by trying to insist somehow that you had a judgment, as she said, a 33-page judgment in your favour. So somehow this Government needs months to understand a 33-page judgment to read and therefore cannot put anything that they talk about reform into effect. They cannot do—not one thing they did, they have not spoken about that. They spoke about a 33-page judgment handed in their favour but you lost. You lost and the most important and critical part of that judgment was at the Privy Council, you lost.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: And look at them, Mr. Vice-President, their faces in their hands and it is clear that they have to sit through what the hon. Senator obviously fell short on which was there was no direct rebuttal of any questions asked by Sen. Wade Mark, Sen. Richards, Sen. Lutchmedial. No direct rebuttal. When are you going to call the elections? You have not answered that.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: You lost at the Privy Council, can you explain that? No, they cannot explain that but you come to tell us about reform and how about who jumping with who. Well, be careful who you jumping up with, “yuh sindoor might fall off”.

Sen. Lyder: “Or might be ah German.”

Sen. D. Nakhid: “It might be ah German.”

Hon. Senator: [*Interruption*]

Sen. D. Nakhid: No, it is not offensive, it is not offensive.

Sen. Mitchell: On a point of order please.

Sen. Lutchmedial: “Dem could talk about everybody.”

Sen. Mitchell: On a point of order, 46(4), this is now degenerating.

Sen. Lutchmedial: It was degenerated there, that is where it degenerated.

Mr. Vice-President: Senator, 46(4) is upheld. The language used and the tone it was used with is actually improper.

Sen. D. Nakhid: Actually?

Mr. Vice-President: Improper.

Sen. D. Nakhid: Improper. Which part of it, Mr. Vice-President?

Mr. Vice-President: Senator, the Standing Order alludes to improper motives and it had gotten extremely personal by the representation of a religious symbol. Yeah?

Sen. D. Nakhid: Guided, Mr. Vice-President. So here again, we had an entire contribution of 40-something odd minutes when she herself said that this whole Bill could have taken five minutes, she went for 40-odd minutes on something that was not only empty, rhetoric but very vitriolic.

[MR. PRESIDENT *in the Chair*]

There is no need for that level of personal attacks. But then what can you rely on when you have no substance to anything that you do? You failed on local government reform, you implemented nothing. You went all the way to the Privy Council and Sen. Jayanti Lutchmedial and Anand Ramlogan “beat the pants off ah you, beat the pants off ah you”. What is your answer to that? No answer to that. “Yuh come here in the Senate and double down again to talk about, well we win two here, we win three there”. [*Laughter*] “We win—two was from Scotland, one might have been from Kenya”.

Sen. Lutchmedial: Anybody German?

Sen. D. Nakhid: Nobody cares about that.

Sen. Lutchmedial: “Any ah dem is German by chance”?

Sen. Mitchell: A point of order please. 53(1)(b), repetition.

Sen. D. Nakhid: I am responding directly.

Mr. President: As you are responding directly, Sen. Nakhid, the point of tedious repetition can come in, if in that response, you are repeating what has been said before. So what I just heard in the few minutes that I have been here is a repeat of what has gone before so I am just cautioning you at this point in time that we are going to run into tedious repetition if that continues.

Sen. D. Nakhid: Thank you very much, Mr. President. Then we can go straight into their claim that somehow COVID delayed them putting any kind of reform in. *[Laughter]* I think even the Leader of Government, he felt that was a bit far-fetched. You know I mean that is kind of putting—

Sen. Lutchmedial: Even he could not hide *[Inaudible]*

Sen. D. Nakhid: You know I mean he was amazed that they would claim that COVID somehow stopped them from implementing any kind of reform.

Hon. Senator: Embarrassing in fact.

Sen. D. Nakhid: I mean how can you uphold a contribution lacking substance? “Yuh go back tuh COVID. Ah surprise they did not somehow blame Kamla as well.”

So here we have—even one of the worst statements I have heard. Listen to this, Mr. President. “Litigation is like ah lottery.”

Hon. Senators: *[Laughter and interruption]*

Sen. D. Nakhid: Litigation is like a lottery. Well I will tell you, for PNM lawyers, maybe, but for UNC lawyers, no.

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

Sen. D. Nakhid: Litigation is about reasoning. Litigation is about calculations. It

is about research, it is about skill. It is about proper documentation.

Sen. Lutchmedial: “Teach that in Hyatt gym.”

Sen. D. Nakhid: It is not about—well I could imagine, you know, when you just throw things and hope that one judge might not be Scottish, one might be Irish, you might look at it as maybe it a lottery, but for the UNC who has consistently “beat them” in the Privy Council “is not ah lottery”. For us, “is ah par for the course” and I think the hon. Prime Minister will understand what I mean. It is par for the course, “we beat them” all the time at the Privy Council. All the time.

Hon. Senators: [*Desk thumping*]

Sen. Lutchmedial: They should be accustomed by now.

Sen. D. Nakhid: So I can see why the Senator, Mr. President, had to launch into personal attacks against the same person who beats her constantly. She had to launch personal attack against Sen. Lutchmedial because she is the one at the forefront together with Anand Ramlogan and Ravi Balgobin Maharaj as putting that licks upon the PNM.

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

Sen. Lutchmedial: Dey get bazodee.

Sen. D. Nakhid: So you know, as the more I think about it, Mr. President, I forgive the hon. Senator. I forgive her, I forgive her because when “yuh get daht kinda licks, yuh tend tuh get confused and yuh know, yuh lose yuh point of orientation. Yuh doh know what to say, yuh doh know what to do”. I know why because “I used to beat people in football and they doh know, dey cannot find dey bearings”. So what they do? “Dey start tuh kick yuh down, personal, hit yuh ah elbow.” So I understand and as a matter of fact, I do apologize, I do feel sorry for the poor Senator. Sen. Lutchmedial, you should note—take it easy on the PNM next time in the Privy Council.

Sen. Lutchmedial: Licks now for sure.

Sen. D. Nakhid: Licks now for sure.

Sen. Lutchmedial: “Ah get now.” Was nice before. “Yuh want to get personal?”

Sen. D. Nakhid: Back to the Bill. It is not about validation. You cannot validate what the Privy Council has made invalid.

Sen. Mark: Yeah.

Hon. Senators: [*Interruption*]

Sen. D. Nakhid: You lost. They told you that what you did, the litigation that you passed was wrong. It was wrong from the inception. They told you that. You come now, cap in hand begging. Cap in hand begging to the people who told you in the first place that what you are doing is wrong. “We love to see allyuh beg.” But it is unbecoming. Just come and tell us, we made a mistake. Tell the whole Senate, tell the whole population, we made a mistake.

Sen. Mark: Apologize.

Hon. Senators: [*Interruption*]

Sen. D. Nakhid: Apologise to the population, call the election and we might forget about it. But when you come, Mr. President, and you try to double down on a mistake, you look foolish. You basically look like your entire contribution. That just cannot be right. Just apologize to the people of Trinidad and Tobago, said “yuh tried to hoodwink, yuh tried to deceive, yuh tried to mamaguy” and you failed. Why? The highest court of the land which we should hold dear to, which we should cling to, which we should be thankful for, has said that this PNM is illegal.

Hon. Senator: Wrong again.

Sen. D. Nakhid: Wrong again.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: So I think we should all commend Sen. Jayanti Lutchmedial for not only her work that was done at the Privy Council, for a wonderful contribution. Those that I have heard, that of Sen. Mark, that of Sen. Paul Richards and we ask, we implore, as most of the citizens of Trinidad and Tobago have to do with this Government, for once in your life, be honest, for once in your life, be decent, take that loss that hurts you so badly that caused you to act so erratically in this Senate, take that loss, take it decently, take it decently and say please forgive us, ask the country to forgive you with a remorseful heart. Yes, you understand, hon. Randall Mitchell, Minister of Tourism.

Sen. Lutchmedial: He shame, he shame.

Sen. D. Nakhid: Yes, I know, I know. Please.

Sen. Lutchmedial: “He have ah lil decency”.

Sen. Lyder: He is not a bad fella.

Sen. Lutchmedial: But not much, “ah lil bit. Dah why he did not get back he seat because he too decent for them.” [*Laughter*]

Sen. D. Nakhid: So, Mr. President, I am glad we were able to turn what was becoming a very tense atmosphere into one that is more realistic to try and tell this PNM Government from all the people of Trinidad and Tobago, you cannot play with the democratic rights of the people of Trinidad and Tobago.

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

Sen. D. Nakhid: No matter how you phrase it, no matter how personal you get, no matter how you try to bring language from on high. Democracy is the reality of our country.

Sen. Mark: Exactly.

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

Sen. D. Nakhid: UNC will not let democracy fall through the gaps, we will not

allow it, we will stand firm. We will stand there for the people of Trinidad and Tobago and we will say to this incompetent, this corrupt, this illegal Government that you will not pass anything in this Parliament while we sit that will infringe on the rights of the people of Trinidad and Tobago.

And in closing, Mr. President—

5:45 p.m.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: In closing—

Hon. Senators: [*Crosstalk*]

Sen. D. Nakhid: In closing, Mr. President, you do not come to the Senate and say, this Bill only needs five minutes, especially when you have had such an impact on the people of Trinidad and Tobago, their lives, their lives—

Hon. Senator: Six months.

Sen. Mark: Six months.

Sen. Lutchmedial: October.

Sen. D. Nakhid:—their lives. I heard councillors talk about how they had hopes, ambitions beyond that, and they were more or less trapped by the legislation that they—

Sen. Lutchmedial: I have to watch “cokey eye” now.

Sen. D. Nakhid:—deceitfully brought in.

Sen. Lutchmedial: I have to watch “cokey eye”.

Sen. D. Nakhid: I think the Privy Council alluded to that. So we are—again, Mr. President, it is clear. It is clear. I think the fact that this Government, that the people unfortunately, have realized they got into government, that this Government has run its course. This Government has had its time, this Government is no longer valid, this Government—

Sen. Lutchmedial: Nothing could validate them.

Sen. D. Nakhid:—is no longer relevant and for them to stay, they would have to bring some legislation to this Parliament, to get them to stay in Government. Because no way the citizens of Trinidad and Tobago are going to allow this Government—

Sen. Lutchmedial: To continue.

Sen. D. Nakhid:—with their deceitful manner to continue to govern and rule over a country where democracy is the norm. We will not allow it.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: And we wait, Mr. President—

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid:—on international election observers to confirm what we know, that the next government, and the winner of the local government elections, will be the United National Congress.

Hon. Senators: [*Desk thumping*]

Sen. Roberts: Yes.

Sen. D. Nakhid: And I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Deyalsingh.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Varma Deyalsingh: Thank you, Mr President. We owe it to our councillors, we owe it to our communities, to get our house in order. We owe it to get this right. And this Bill attempts to do so. It has five clauses and the main clauses I look at is clause 3, which is to extend until the 18th May, the terms of our expired councillors. Clause 4, which serves to provide for election within three months. And clause 5, to validate the actions of decisions made by our councillors.

The calling of elections is really—it establishes the importance of citizens' rights to vote. When they place their finger on the ballots they are now able to feel that sense of importance, it means something again. And it is important I think, Mr. President, because you see, it now gives us a chance to be able to remove any non-performing councillors if we are faced with any in our communities. This gives us an earlier chance to do that to get some relief. I think Ravi Balgobin Maharaj must be praised because his legal action, ensures that democracy and the right the vote is maintained. It sends a—

Hon. Senators: [*Desk thumping*]

Sen. Dr. V. Deyalsingh: It sends a clear message, not just to us, but throughout the Commonwealth of the citizens' right to vote. So this Privy Council decision judges has a broader message, not just a sense, a much needed message about the power of the citizens to choose their representatives. At our last meeting here we looked at Parliamentary autonomy, and there I had argued that if we had probably gotten a legislative body within our Parliament, we may have been able to look at laws, ask those attorneys in any sort of, you know, if the law reform commission or persons were under us, you know. What does this law entail, and is there any way there could be an overreach in this law? Is there any way that they could look at sometimes things that we as parliamentarians here, as legislators, would not look at things beyond it. Things that could have probably prevented what happened in the Privy Council.

And again, this is was a civil opinion expressed by Martin Daly who we even suggested sometime, that there is a need for legislators to have access to legal advice on difficult matters. But I say all matters, because if you have matters coming here, we should have been able to approach them to see, get, more exact law. The fact that we are here today to fix something means something went

wrong. I was worried about clause 5, and clause 5 looks at the validation actions of the councillors and aldermen, and whose terms have expired. And why I was worried about is, it is really—I am happy to say that worry I had has now dissipated with the proposed amendments from the Attorney General, who suggested somehow to give us a more exact interpretation of this.

So clause 5 in its amended version, I would be tended to support this version. But I looked at the question, Mr. President, about you know, the local government looking at the—putting it at four years and moving it from three years, and three years still would have had the advantage of a mid-year review of any government in position to look and gauge how they are performing, to tell their government, ‘hey, we may not like that’. Not just looking at councillors underperforming. Also, the fact that if you extend it to four years, I say but why not five? Because two things, we are faced with economic challenges, and sometimes it could make more sense if you have an election—local government election—in tandem with general elections which could serve as a one election for all.

So in my thinking, I am looking at if we have to go further with this, we should look at this. Again, it will save us from some political rhetoric which has been very insulting to you know, both parties against each other during elections, be it mid-term or general elections. It saves the population some angst. So one start of elections, they have the benefit of serving both the councillors and the Members of Parliament. So for our councillors’ sake, again, I support clause 3 and they amended clause 5. And I have to place some of the councillors of the Tunapuna/Piarco Regional Corporation. The Chairman, Kwasi Robinson, has been very good to our community has reached out, has—

Hon. Senators: [*Desk thumping*]

Sen. Dr. V. Deyalsingh: He is a tremendous person, and he has reached out to help our communities with our crime efforts. My councillor Seema Ramsaran-Augustine, again we can WhatsApp her all hours of the night to hear our concerns; Jlynn Roopnarine in Curepe, and also Travis Williams of Auzonville. Those are people who serve, they serve. I can tell you that, I have used my councillors, I have—not even my councillor but other councillors in different areas adjacent—and they have all answered our call and attempted. So they are genuine people and again, the whole local government reform to put them in a better financial the position, this is something I look forward to.

So therefore, I must say now, we have to restart our councillors working with the plans they had. And while clause 5 gives them the power now, gives any decisions they had made the legal blanket for it to continue, this is something that I fully supported. We had policies passed by the Tunapuna/Piarco Regional Corporation in terms of certain crime initiative. The Tunapuna/Piarco Regional Corporation Chairman, Mr. Robinson, actually had a plan where he was going to serve notices on people to remove illegal structures, to help with the flooding. All that would have been abeyance, if clause 5 would not have been brought before us today. So bringing that in place today would let those plans go through, would let some relief, hopefully, with the flooding.

5.55 p.m.

So I want to comment on clause 4 of providing—in holding government elections.

So when I looked at this, and I am seeing that moving it to three to four years, before time, I should add, I am thinking, the Government should have gauged some opinions outside, not the minority opinion from the Opposition because we are hearing minority judges' opinion, majority judges' opinion. Let us forget the Opposition here now. Let us look at the fact that other persons out there

would have made comments about the postponing of elections.

And I would like to quote, with your permission, Sir, the article of Kimberly Mackhan in the *Guardian*, where it said:

“Manning: Local govt system has collapsed”.

And in this article, the late Prime Minister did say that he postponed the elections because:

“The system has collapsed. It is not a matter of PNM or UNC. The system has collapsed...”

And I am quoting what he said:

“...local government system...therefore we have to put something proper in place before we can go to the polls...”

So I understand his thinking, and I understand the thinking of other administrations, other persons who think, “Let us fix the law before we go to election.”

But again, you see, this is something that has caused a lot of debate, this is something that went up to the Privy Council. This is something we cannot take lightly. And I must say, our corporations seem to working good, they seem to be having a problem with funds. So sometimes, if they get the correct funding, they may be able to do their plans further and probably with the other Bills coming soon to us with property taxes, et cetera, we may be able to achieve that.

So looking at this article, it mentioned, Mr. Patrick Manning:

“...postponed the local government elections on four separate occasions since 2006...”—for seven years.

And when we look at this we have seen there was a history of this before. And it was made mention by the Minister of Rural Development and Local Government that even in 1970, and then around 1990 when the NAR came into

power, it was also postponed. So therefore, there was a history of it before where we gave the councillors a life beyond their terms.

But, you know, if we had done so, as we did so in the past, it may not have gotten to where we reached. If we had used the same technique, we would not have—probably it would have saved a lot of taxpayers' money to hire some senior counsels on the Government side to go all the way to the Privy Council to defend the action. We could have stopped after Ravi first launched his matter in the High Court. We could have taken a remedial step, we could have stepped backwards and say, "Let us go the old way."

So I make mention, Sir, that we have to—as I said, you know, I may be hesitant to say that my rights may be taken away for seven years by not being able to cast my vote and I feel uncomfortable with that, you know, because a lot may have changed when I voted a councillor in. And I am saying that if successive governments keep speaking about bringing local government reform, does that mean that tardy law passage would prevent me of my democratic right? Legislative delay causing infringement of our democracy.

So I think government should have gauged what was in the public domain before they made that move. And I looked at, and I would like for your permission to quote what the fourth estate said, an editorial in the *Newsday* newspaper, and remember these are independent—the press is vital to our democracy. And I would like to quote this, it was in October last year, the *Newsday* had an article:

"Fix local election dates".

It was Friday the 28th of October, and basically it said:

"There is too much uncertainty surrounding of timing of the local government elections."

And they mentioned:

It—“...comes to an end in December, with a period up to next March in which the elections must be held.”

They mentioned further:

“However, it is within the power of the Government to use its majority in Parliament to pass legislation deferring the poll.

Indeed, this is what occurred in the years 2006, 2007, 2008 and 2009 under the tenure of Patrick Manning. In 2010, local government elections resumed under Kamla Persad-Bissessar.”

And it mentioned here now:

“The need to reform the system, to draw up fresh proposals and to hold consultations has often been cited by governments as reasons to defer polls...”

Same thing we are hearing today from the Ministry of Rural Development and Local Government. And I am saying, we heard it again today, and we have that dream, we have that support, we want to give the local government and the councillors—local government corporations and the councillors greater autonomy, greater ability to serve us. And the article, you know, mentions that:

“But because local government elections are seen as mid-term report cards and because it is expected that the favourability rating of any government lags over time, such delays and manoeuvres are often more reflective of political expediency than anything else.

The current government has already been asked by opposition MPs to clarify whether it intends to hold off on the elections pending legal reform. In reply, the Government has kept the issue of the timeline close to its chest.”

The article went on to say:

“...in the national interest for our democratic process...”—we need—
“...certainty and regularity.”

And they were actually calling for fixed days of it, fixed timing of this, and this is one of their recommendation. So this was in October 2022.

But let us look at, Sir, if you will allow me to read now what another individual said, and this is in November 2022. And I want quote *Loop* news, where Mr. David Abdullah actually quoted in this article that he said that—and this was in *Loop* news:

“Delayed Local Gov’t Elections an ‘attack on TT’s...”
—7th November, 2022. And why I looked at his opinion, because he actually then said:

““What ought to have happened is that the election should take place no later than March 2023 and then after those elections, the new legislation can be implemented, including giving those corporations and those elected councillors a four-year term...””

He went on to say, the Government, you know:

“He added therefore that the intention to extend the position of councillors and other local government representatives by one year should have been signalled and made clear in the debate on the local government reform legislation.”

He said:

““So the parliament would be aware as to what they were voting for and the implications of their vote in terms of setting an election date, and the citizens of the country, through that parliamentary debate would also have been aware of what took place and what was planned by the government.””

So that was his opinion.

So again, in making my opinion, shaping my opinion, I looked at one of our esteemed Independent Senators, that is the late Dana Seetahal, when she actually made reference, and I would like to make reference, Sir, to:

“Call local government elections now”.

A *Guardian* article, on the 8th of the seventh month, 2009. And in it, it mentioned:

“An eleventh-hour theft by Prime Minister Patrick Manning to persuade Independent senators to support a Bill to extend the life of the municipal corporations in Trinidad was unsuccessful, during yesterday’s sitting of the Senate.

This, as Independent Senator Dana Seetahal told legislators after Manning’s contribution that she would be voting against the measure.”

She said:

“I am protecting the Government from itself when I vote against the bill,” she stressed. ‘If I were to vote in favour of it, I’d be condoning the thinking that you cannot have this change (reform) without postponing the (municipal) elections.’”

So again, those are opinions I brought in there, Independent Senator, leader outside of a party, and also the fourth estate. But as I mentioned, we had the same excuses before. So we see legislative delay trumping our right to vote. And this cannot be right. So we suspend democracy due to our failure to legislate in a timely manner.

So I must say we have to—we have to look at the passage of this local government Bill and it may really need negotiations between the Government, the Opposition, and really getting to the crux of what is needed because it will benefit and it can benefit our communities. I do not care, as I say, what minority or what Scottish judges say, I care about my right to hold the councillors and their regional

corporations accountable to properly serve my community.

As I came here today, I heard thunder, gray clouds were gathering, and I looked and I felt a fear that our community in Real Spring, Valsayn, would be flooded again. We have challenges there—we have had challenges there. Rainy season is here. And I was wondering, could I call Councillor Seema to bother her? If there is flooding, could I call her now to get the sand bags and whatnot, which we normally do? Could I call her to come and wash up? Could I call her knowing that she may not be paid? So therefore, this is why I support clause 3, providing the terms of office of councillors, you know, to extend and to provide it. They need it.

So therefore, before I close, I want Mr. Vice-President, to read a WhatsApp message I got from a councillor and I direct, through you, Chair, questions to the Minister of Rural Development and Local Government, or the AG. And this is a concern by a councillor who I am hoping somehow you could probably address. One question:

The status of stipends for councillors, does it stop as of May 18th?

Two:

Will councillors and aldermen stipend continue until the announcement of the election date?

Three:

Will stipend continue until the date of the election?

Councillors also have staff to pay, rent to pay in their office, and they, you know—these questions are really to consider what exactly will be the position of councillors and aldermen on the commencement of this Act. So I would appreciate if we could get that, you know, answered to at least give some feedback to the councillor who I know is listening to see what is happening in this debate.

So I think we need this Bill here today. I think we need to support our councillors. We need to support the corporation. We need to realize that if mistakes were had, we have to come in here and try to see if we could wrap things up, fix things up. Because fixing things is something that we need to do. We need to fix T&T to do better. We need to fix democracy to be better. We need to fix our councillors and we need to fix our community. Thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Hislop.

Hon. Senators: [*Desk thumping*]

Sen. Laurence Hislop: Mr. President, thank you for the opportunity to join this debate. I will not be long, Mr. President, because I think we have exhausted, or I believe we have exhausted, I do not know if the Opposition thinks we have exhausted everything, but I think we have exhausted all the clauses that we were to treat with today.

But I just want to treat on a couple things before I take my seat, Mr. President. I sat here today, and I do not know if it is because the arrangements have been changed in the Chamber, but the screaming was a bit loud today, and unnecessary in my estimation. I sat there and I heard words as “criminal” and “gang” and “kidnap”, and I am wondering where are we, if we are really in the Senate Chamber today. The level, the decibel level—if the EMA was supposed to do a noise pollution test within the Chamber today, I am sure that we would have been in breach of the law because for whatever reason, the UNC feels it necessary to shout or the Opposition feels it necessary to shout to get their point across.

When you listen to Sen. Vieira SC, and even Sen. Dr. Deyalsingh, and Sen. Dr. Richards, and the level of contribution that came across the Chamber today, the level of decorum was a true representation of what I believe the debate in the

Senate should be.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: And no matter how loud the UNC shouts, when the election is to be called, it will be called. And I could say with no fear the PNM is not afraid of any election, was never afraid, will never be afraid of an election.

Hon. Senators: [*Desk thumping*]

6.10 p.m.

And I do not know if they believe if they keep shouting, it is going to be called tomorrow, but the Prime Minister is the only one who has that within his remit and I know he will use his wisdom. I want to say, Mr. President, and when we talk about democracy, I heard Sen. Mark and all the other Opposition Senators claim that this is an attack on democracy. Well, if you want to talk about democracy, talk about the PNM being the bastion of democracy, from independence to now. We have had—

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: —Mr. President, we have had 60-plus parties fall at the feet of the People's National Movement in elections. So, when you want to talk about democracy, you talk about a party that has been in governance in this country and has kept its record intact of calling elections and being part of the governance structure in this country. I want to ask, you know, Sen. Nakhid, kept shouting about licks and licks, I want to ask how many elections have the UNC lost under the present Leader of the Opposition?

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: Because—so you beat us in the Privy Council, but how many—
“we tired beat all yuh in elections”

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: And we are gonna come and beat again, because there is an old saying, there is a phrase that became very popular in Tobago called—during a couple of those THA elections—beat and teach. And so, the PNM has been able to teach—

Sen. Lyder: No, no, no [*Inaudible*]

Sen. L. Hislop: —you see, there we go, there we go. You know, the Prime Minister said something this morning, Mr. President, that Trinidad and Tobago has been able as a young democracy, has been able to manage its affairs without issue. We have had two little blemishes on our history but when you look at Trinidad and Tobago's record with democracy, it is second to none in the Commonwealth, it is second to none in the world. We have had free and fair elections from independence to now and I—

Sen. Lyder: This go be [*Inaudible*] with no observers.

Sen. L. Hislop: —you see, we talking about the decorum again, Mr. President. You know, they have a love affair with the Privy Council only when they are in Opposition. Because when they are in government, they want the CCJ, they want to get rid of the Privy Council, but whenever they are in Opposition they want to keep the Privy Council and get rid of the CCJ.

Sen. Lyder: [*Inaudible*] the population.

Sen. L. Hislop: You know, Sen. Richards spoke about the Government not seeing local government as important. I think the history books will show that or I may have misquoted him slightly, but the history books will show that the only—that this People's National Movement, this party, has been at the forefront of the reform of local government from since the inception of local government to now. Our previous leaders, from Patrick Manning to even Dr. Rowley, have been at the forefront of trying to bring a level of governance into local government that is

admirable, that the local government practitioners can be proud of being part of local government. You know, well I would not even speak about Sen. Nakhid, because I have on my paper here, Mr. President, nothing.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: That is what I have—that is what I literally have written on my paper, nothing, because it was an entire contribution of, nothing. It was a vacuum. And that was very unfortunate.

I want to just share with us that what we here about really and truly, is about the reform of the local government system. We recognize that there is a significant shortfall with regard to governance. The delivery of governance at the local government level. And because the local government practitioners have recognized or we have recognized that the local government practitioners are the ones on the ground, they are at the forefront of service delivery. And it is only right that the Government ought to give, or that any government should give the local government practitioners more authority, give the system more structure, because when you do that, it allows for a more efficient form of governance at the lowest level. And I do not even, Mr. President, and I do not even want to use that phrase at the lowest level, because that level is where governance is significant. Sen. Deyalsingh, spoke about—he saw the weather setting up and he is wondering if he can still call his councillor. And that is the reality for all local government practitioners. They are actually the first ones that the burgess calls before they call the MP and the Ministers.

Hon. Senator: On the ground.

Sen. L. Hislop: Because they are there with the people. And I can see—you know, the Opposition, on the one hand says that they want to be for reform but they do not show that by the way they debate, by the way they contribute, by the

way they vote. Because if we are serious about reform, we would recognize—but I have this sinking feeling Mr. President, that the Opposition may be comfortable with the way the local government structure is.

Hon. Senator: Yes.

Sen. L. Hislop: And it is sad that they may be comfortable, that the system may be broken and they may be comfortable with a broken system. When the Government has been seeking and the Prime Minister has been on record, that local government reform is one of the key things for this Government. Because we recognize that if your local government system is working properly, and when you make the local government system more autonomous, the people on the ground feel it. The people in Real Spring and Valsayn and Barataria, they feel it because they are the ones who are affected when the drains are clogged and the garbage is not collected, and this is one of the key—these are some of the key things that local government is responsible for.

But, you know, the Opposition continues to talk about the PNM has a track record of suppressing the rights of citizens and all of these things. And I heard in the other place the Opposition Leader attempt to create a parallel between what transpired in the THA election—think is January 25, 2021 if I am not mistaken—and made the assertion that the Government sought to take away the rights of Tobagonians by creating the 15 seats. And in her contribution in the other place the *Hansard* says, I am quoting from the Opposition Leader's contribution:

“How did we get here?”—the question is what she asked—“this is not an isolated error. There has been a pattern of behaviour.”

And the Opposition leader went on to talk about:

“In the THA election in 2021, the PNM lost significant ground in the January 25, 2021 election...There was a tie, six/six. The PNM Government

instead of utilizing the established procedure for resolving tiebreaks, the PNM in a stunning act of Executive overreach, directed the EBC”

And these are the words of the Opposition Leader, Mr. President:

“Directed the EBC to carve out 15 more seats, and kept the incumbents of the six/six tie, that could have been resolved in—the Standing Orders—that could have been resolved by”—resource—

Hon. Senator: By what?

Sen. L. Hislop:

“By recourse”—sorry—“to the Standing Orders of this House. There is a provision that where there is a tie, you come to the Standing Orders of the House of Representatives, and that tells us how to break the tie.”

Mr. President, just to correct the record, first and foremost, you cannot come to the Standing Orders or you cannot use the Standing Orders of the House of Representatives if the Tobago House of Assembly is not constituted. The Tobago House of Assembly was not constituted in the six, six tie. They were unable to elect a presiding officer therefore, the House was not constituted. So, to use this and to even go further to say that the executive, sorry, that the PNM in a stunning act of Executive overreach, directed the EBC to carve out—if I am not mistaken, and I am sure the record will show that the Government came to the Parliament. The Executive did not direct the EBC to carve out 15. The 15 seats that were created, or the additional seats that were created to make 15 were done so from the standpoint that a recommendation came from the Tobago House of Assembly, that this is where we want to go in terms of representation in Tobago, to move from 12 to 15. So, when we talk about—

Sen. Mark: The THA cannot direct the EBC.

Sen. L. Hislop: Mr. President, I recognize Sen. Mark is lost because he just came back into the Chamber. So he is way off base in what I am dealing with. And the point I am making is that for the UNC to stand and say that the Government is suppressing the right of the citizens of this country. It is far from it. Because it was the Prime Minister who went to Tobago and met with the representatives and gave them the options to work out something. To work out an arrangement for governance. And when that did not happen, then the Parliament of the country had to act because you could not allow governance to remain in a hung position, in stasis for too long.

And so, Mr. President, I want to reiterate the point that reform is what is needed with the local government system. And even when we were debating particular legislation a few months ago, we spoke about why—I was one who brought the THA model into the mix to state that this is where the local government system in Trinidad should get to. And that is the thing about governance. Governance is an evolution. We have to evolve; we cannot stay in one place for too long. The world is changing, and if we recognize that something is not working, then we have to find another avenue for it to work. And if we have challenges in our local government system, then what this Government is seeking to do, by all of these years of consultations and all of these Bills that have been brought to the House, is to seek to create a better system of governance at the local level. The Government wants to allow our municipal corporations to be more autonomous, to be stronger in its delivery.

The Minister for Rural Development and Local Government spoke to the increase in the budgetary allocations and I am sure every single corporation would be grateful, including those who are not under the control of the of the PNM and

there may be some that UNC now hold that will be lost in the local government election.

Sen. Mark: [*Inaudible*] Tobago wipe out already, Trinidad coming to replicate it.

Sen. Mitchell: Mr. President on a point of order please, 53 (1), ask for your protection.

Mr. President: So Members, whilst the Senator is making his contribution we just monitor, the level of crosstalk. Continue, Senator Hislop.

6.25 p.m.

Sen. L. Hislop: Thank you, Mr. President. You see, whilst we are busy governing, all the UNC is concerned about is elections. I have sat here, the short time I have been in this Chamber, all the Opposition is concerned about is elections, and is elections—and is elections for more licks.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: Because every single time the UNC has called for an election, what has happened? Especially under the present Leader of the Opposition, what has happened? They have lost the election.

Sen. Mark: Well, call it.

Sen. L. Hislop: No, I do not have the power to call elections, and the elections will be called at the correct time. So do not worry—[*Interruption*]

Sen. Lyder: According to the Privy Council, the time has passed.

Mr. President: So the level of crosstalk again is getting a bit much. So much so that I am straining to properly listen to the Senator while he is making his contribution. So again just monitor the level of crosstalk. Continue Sen. Hislop.

Sen. L. Hislop: Thank you, Mr. President. You know, I recognize Sen. Lyder's enthusiasm. I know he is ready to get into the debate to shout, because that is what has been coming from—

Sen. Lyder: You better hope—

Sen. L. Hislop: You see, there we go again, Mr. President, unnecessarily so. But I am not going to be much longer, I will wrap up shortly. So when we talk about— we have spoken here all day about what this legislation is seeking to do. The legislation is seeking to validate what has been done by the councillors within a particular period, and as a responsible government—we all know what happened in the Privy Council. There is no need to keep rehashing that. As a responsible government, we have come back to the Parliament to validate so that the work of local government can continue. The election will be called. The Prime Minister, I am sure he knows the date and he will announce the date for local government election, and the PNM will be ready. The PNM will be ready as always.

The only national party in Trinidad and Tobago is the People's National Movement, because when you could not win in Tobago you chose to send a proxy. So the only party, the only national party, will be ready for election. We will contest every seat and we will win the next local government election. Mr. President, I thank you.

Mr. President: Sen. John.

Sen. Jearlean John: Mr. President, I intended to speak and then I decided not to speak, but I heard the Senator from Tobago, the younger Senator from Tobago, so the older Senator from Tobago had to get up and also make an intervention. You see, the Tobagonians have a soft spot for Tobagonians. I must confess it is only one Tobagonian “me eh have no soft spot for”.

Hon. Senators: [*Laughter*]

Sen. J. John: I heard my young Senator from Tobago trying to rewrite history, and I suppose he is trying to support his team. So I could not leave it on the record seeing that it had to do with Tobago's business. But prior to just making the few

points that I think I want to make today, something happened in the Chamber earlier. I mean, I was in the Senate in 2001—I think there is some advantage of living a little longer—and I really have never seen that the Senate descended to the level it descended today. I think that is why I did not want to speak again, because I was so shaken by it.

Because the Opposition is not here just to oppose, but the Opposition has a role, and the role is in the Constitution actually. It is only six of us, and we have to come—just as the Government and the Independents they work on behalf of whoever sends them here, or whichever interest they serve—we have to come and serve that interest also. If our style sometimes is a little vociferous and what have you, is because we are not Government, we are the Opposition, and we really have to get our points across.

I think today Sen. Lutchmedial was at her very, very best, very best. Very excellent contribution.

Hon. Senators: [*Desk thumping*]

Sen. J. John: Really to have had the attack—you were not sitting in the Chair at the time, Mr. President, but it was really the lowest common denominator that I have ever seen exhibited in this Chamber, and for that—if the PNM would not apologize to Sen. Lutchmedial, I will apologize to her, because I just think it was shameful. I will excuse the hon. Government Senator of maybe saying she is probably suffering from newness, and we will leave it there.

Mr. President, you know, the Bill everybody went over what the Bill was meant to do, and so I will not belabour that point. I suppose people were very concerned, so they started to count their 10 fingers and their 10 toes, but that does not change anything. As I have said, just say you have made an error and let us move on with it, as it were, because we know this is not about local government

reform. It really is about the PNM trying to extend their shelf life and trying to avoid the electorate.

Hon. Senators: [*Desk thumping*]

Sen. J. John: The Privy Council judgment was very, very clear, and no matter how we dress it up, it is what it is. Really and truly once the—I mean I looked at the hon. Attorney General’s press conference, as did a large majority of people, citizens of this country, and I was astounded by what he had to say. Notwithstanding, I think he made one comment that he is not a politician, he is an attorney. I think it is good that the Prime Minister is a better politician than maybe the Attorney General is an attorney, because at least the Prime Minister accepted the judgment and decision of the Privy Council. He did not count his 10 fingers and 10 toes and so on. He said, “I accept it”.

Now what we want the Prime Minister to do is to go further, and to take the election date out of his back pocket and call the election, because that is what is required at this point in time.

Hon. Senators: [*Desk thumping*]

Sen. J. John: We are here today because of the Government’s—well I do not know if it is deliberate, incompetence or manipulation as it were, because we know, we have sat in these very Benches, and every time a new piece of legislation comes, we always have to say who is this targeting? We always suspect it is some kind of ad hominem legislation, or it is something that will breach the Constitution. It does not skirt anything.

We come here just like everybody else to work in the same manner in terms in the interest of the people. Certainly, if the Opposition says this is infringing on people’s rights, you understand, we are not doing it to be obstructionists as we are called. We are doing it because we believe that it is wrong. And certainly we will

bring the amendments, which are never taken up, and that is why we are here today, because we have a Government where that stick—as we say in Tobago—break in their ears. A good Tobagonian President would have said, who proceeded us and the young hon. Senator from Tobago, he would have said, “Habits grow in slow degrees, streams into rivers, into seas”.

I believe in these old sayings coming from Tobago. That is where my value system is embedded. He said:.

“So things happen day by day, you accept them and they keep creeping up, until you are overwhelmed, you can’t do not do anything more, it is the accumulation, bad habits growing by slow degrees.”

That is what we are seeing manifested here. So much so that people feel they could jump up and tell Sen. Lutchmedial—such an excellent representation of young talent. You do not have to agree with her, but certainly you do not have to go where the Senator went. I am really appalled. I will tell you something. Me, I am very strong, and certainly I was shaken to the point that I told Sen. Mark I am not going to speak again. You cannot do that.

So, you know, it is really what we do here. We argue and we certainly debate. So today, as I said, the poetic word of our former President Robinson it is coming back.

I just stood to talk about the THA election of 2021. Mr. President, the PNM would have lost significant ground in the January 25, 2021, THA elections when they had a six/six tie. Now, looking on I felt as a senior statesman, and the Prime Minister being from Tobago, would have engaged the folks who would have been—well, the Opposition side at the time—because there was a PNM Administration in the THA. That did not happen.

The Prime Minister found himself in January, I think was 2021, the 19th

January, if I am not mistaken, and he brought a Bill to the Parliament. Now, what he brought in fact was I think was a report from the EBC, report No. 13, when in October of the preceding year there would have been a report No. 12. Now that report would have said, you have 12 electoral districts, that is all you have. I mean, a lot of the EDs would have grown just by 450 votes—what you call them?—“electoral registrants” or something like that. So it was negligible, and they said in October of 2020, there is no need for any increase in the electoral districts.

Lo and behold, on the 19th January—and I stand to be corrected—there was the Prime Minister himself piloting this Bill to say, well, there is now 15 seats. That is what he did? What do you think that was? That was not normal. There was nothing in law that said where the 15 seats came from. As a matter of fact, Mr. Martin Daly in the *Express* of 11th December, that was after the election, he said—and I am going to kind of paraphrase here—not paraphrase, I am going to read, but parts of it:

“Rafts of persons in both Trinidad and Tobago—journalists, economists, lawyers and other professionals, as well as professional and trade associations—have been frequently verbally abused.”

So this is not a one-off, you know, this is the way the PNM behaves when they are cornered. You understand. This is Mr. Martin Daly SC. This is a real Silk, you understand. He said:

“Farley and his troops showed that dissent, despite relentless personal attack and victimization, is alive and well, and capable of being converted into electoral victory.”

Mr. Martin Daly:

“The PDP came into the political playground and gave a good calpet back to

the political playground bullies on behalf of the victims of bullying. Many of these victims are..."

That is what played off here. When the PNM cannot win, they take up their ball and they want to go home, they want to mash up "de" place. They say:

"Many of these victims are ordinary citizens, prejudiced by the acts and omissions of the constitutional bodies, which are supposed to provide checks and balances against abuse of power, but seem to have become less than robust under authoritarian pressure."

This is a third-party validator, you know. This man, he writes in the papers, he is not kind to the UNC. He said:

"...but seem to have become less than robust under authoritarian pressure. Important constitutional processes have been compromised as a result."

He was talking about the Tobago election. This is Mr. Martin Daly. I am just going to go on for a short part again, Mr. President.

He said:

"In relation to the increase of seats in the THA and in response to other legitimate enquiries about the basis of decisions it makes, the Elections and Boundaries Commission has not been as forthcoming as it should. I am yet to understand the constitutional basis on which the Government could require the EBC to make boundary changes in Tobago simply in order to break the 6-6 electoral tie that occurred in January."

So, Mr. President, this is not a one-off with this Government. This is the way, this is their habit, this is the practice. If they cannot—by hook or by crook they will get their way. And really and truly, it is not right, as the hon. President Robinson had said, "habits grow in slow degrees".

That is why literally every Monday morning the "UNC have this

Government in front of de courthouse”, because they do not listen. As I said before, “stick break in their ears”. Everything is a complaint and an argument, or they throw vile personal attacks at people, “as if people mouth stitch down”.

So, Mr. President, rather than utilize the established procedure for resolving tie breakers, the PNM in a stunning act of executive outrage directed EBC to carve out the 15 seats. That is what I spoke about in Mr. Daly’s article, and then it went on for almost a year. Where, really and truly, the Government was willing, they accepted that the THA could have run without the resolution of the six/six tie, right into December for one year. But what happened in early December of 2021? They lost the election, as will happen when the next local government election is called.

Hon. Senators: [*Desk thumping*]

Sen. J. John: The people are fed up and they are sick, and the more we try to twist and turn and change things around, and try to bring this spin, it is just not working. It is just not working. So what the Prime Minister needs to do is really to take this election date out of his back pocket, and to call that election, because that is what the people are asking for, that is what they are calling for in terms of resolving this issue. The Law Association, again, these are independent people, you cannot say that these are people who are what?—everybody is UNC.

So the Privy Council judgment serves as a powerful lesson to the Government. Mere general and ambiguous language is woefully inadequate when it comes to matters as critical as good governance and democracy. It is crystal clear. The right of electors to elect their representatives is no minor point. As everybody is talking that, this could have been wrapped up in five minutes, you understand. They want us to come to this Parliament and put our tail between our legs.

Hon. Senators: [*Desk thumping*]

Sen. J. John: To sit down and let them run away with this country. Run away with this country.

Hon. Senators: [*Desk thumping*]

Sen. Lutchmedial: To run racket.

Sen. J. John: But we are not going to have that. We are not going to have that. “We eh asking for no quarters and we are giving none. We are going to stand our ground.

Hon. Senators: [*Desk thumping*]

Sen. J. John: And we are going to push back on behalf of the people of Trinidad and Tobago.

So, Mr. President, this ruling serves as a reminder that we the people expect a higher standard from those who enact our laws, and those who are trusted with the responsibility of governing the State. So now that we have cleared all of that, as we urge the Government to abide by the rule of law principle that is enshrined in our Constitution, and that law dictates that the Government calls the election now.

Hon. Senators: [*Desk thumping*] Now, now!

6.40 p.m.

Mr. President: Sen. Welch.

Hon. Senators: [*Desk thumping*]

Sen. Evans Welch: Mr. President, thank you for giving me the opportunity to speak on this Municipal Corporations (Extension of Terms of Office and Validation) Bill, 2023. It is a short Bill, it only involves five clauses and the clauses themselves are fairly brief clauses, but it is nevertheless an important and significant a Bill which needs to become law as soon as possible and it is a necessity for practical purposes, otherwise we will have an impractical situation

developing. And this Bill has been brought here for the very reason of the implications of the Privy Council decision in the matter of Ravi Balgobin Maharaj. Therefore, I can say off hand and from the very inception that this Bill has my full support. I will vote “yea” when the time comes—

Hon. Senators: [*Desk thumping*]

Sen. E. Welch:—because it is a necessary exercise, so I am in the Government’s camp on this one. But, and there is a but, although I am in that camp, it does not necessarily mean that I am the happiest of campers, and I will explain why. It does not mean that I am around the barbecue pit, barbecuing and having drinks with the other campers. I am there because it is necessary. But having regard to the history of how we have come here, there are certain aspects of the journey which I am not at all satisfied with which has brought us here, and let me explain.

First of all, Mr. President—and I will be fairly brief I am sure. First of all, Mr. President, let me just look at the provisions very quickly before I get to point I had just made. According to the clause 3 of the Bill:

“The terms of office of the Councillors and Aldermen which expired on 2nd December, 2022 are hereby extended until the 18th May, 2023.”

The Privy Council has ruled that that term of office expired on the 2nd of December effectively. However, there was the mistaken assumption and the premise that it did not expire and those persons continued in office until such time, as the Privy Council by its decision of 18th May made that clear. However, they would have carried out very important functions, they would have carried out very important responsibilities and therefore it is necessary to ensure that what they would have done between the 2nd December and 18th May is validated, and the only way it can be validated is by this Bill becoming law.

That extension is also important because on the 02 December, 2022, when

the terms on office of aldermen and councillors expired, an election would have become due within three months of 02 December, 2022, that would bring us to somewhere about March 2022. The time to validly hold that elections has since passed and one cannot go back in time, because one counts the three months from the date of expiration of the term of office, which is 02 December, 2022. The only way one can revive and make viable an election period is by the extension of the office, the expiration of that office from 2nd December to 18th May, 2023, so that a new three-month period to hold the elections would now begin from May 2023 and therefore expire in August. So that is another reason why this is important.

Clause 5 of the Bill is important as well because it provides, which I mentioned before indirectly, for the validation of all acts, which occurred after the lawful expiration of the office, by extending the period of the validity of that office. All acts are now made valid by the clause 5 of the Bill. And I also want to commend the Attorney General with respect to clause 5 because it certainly saves some of the time I had proposed to spend dealing with this, because I intended to try and convince the Attorney General that that phrase:

“...and thereafter exercised the functions of Councillors and Aldermen up until the commencement of the Act...”

—it was my intention to try to convince that Attorney General that that is incompatible and irreconcilable with the provisions of the Bill itself. And secondly, it was also a violation of the de facto doctrine, and therefore it needed to be deleted immediately. From my observation of what took place in the House, the Attorney General has defended it. But on this occasion in the Senate, without any opposing contribution, he has accepted the impracticability of this clause and its irreconcilability, and of his own volition, after sober thought, has indicated that it would be amended by way of deletion and withdrawal. So there is no need for me

to go further on that issue.

What concerns me though is that if the intention is that, the extension of the term, as effected by the Miscellaneous Provisions (Local Government Reform) Act, if the extension of the term from three years to four years for councillors and aldermen was intended to apply to the incumbents as well, then it is important that this be made clear in the provisions. Because of the significance of its impact which constitutes the postponement of an election, the postponement of a democratic right, even though it may not be a constitutional right, it is still significant as observed by the Privy Council.

6.50 p.m.

And if one—by extending that term, it seems to me that there is a corresponding duty in drafting this legislation, this Act which effected that amendment, to make that expressly clear. However, that was not done but I respect the fact that it is not every situation that one anticipates in advance.

It is not every situation that one caters for in drafting provisions and it is only when there is a legal challenge one may come to realize perhaps this should have been made more clear and more precise in its terms. But I am afraid, it seems to me however, that there was sufficient notice before this provision was enacted that there was a need for some clarity with respect to it, because I have listened to Sen. Mark. I have also followed some of the observations that were made in the Lower House with respect to this matter, and from what I have heard and the quotations from *Hansard* that I have heard, it is evident that during the piloting and earlier debates of this Bill, let us say, in 2020 and thereabout and in 2019, the issue was raised as to whether what is proposed here applies, would apply to incumbents or whether it was only intended to apply to future councillors. This was before the Act was passed.

So therefore, it would have been become clear at that point in time that it was not expressly stated to apply to incumbents. It was not made clear if that was the intended effect before the Bill became law. And therefore, that was an opportunity, there and then, to actually address the matter and fix it during the process of debate. And it would have only required three or four lines to say, this provision is intended to imply, to apply to incumbent councillors when this Act—on the commencement of this Act. It would have only required a few words to say that.

However, the position taken by the Attorney General then and at the time was that it was not so intended to apply to incumbents and therefore, in those circumstances the amendment was made, it became law without any expressed indication that it was intended to apply to incumbents because the Attorney General at the time according to the *Hansard* that was quoted by Sen. Mark indicated that there is no intention to postpone the elections. And if indeed that was the thinking at the time, that it was intended to apply to incumbents, that is perfectly reasonable because quite often the intention when legislation is passed, unless it is stated otherwise, is that it is not intended to have retroactive effect.

It is also reasonable in the sense that, if one is bringing such a new measure, one may not intend to impose it on an existing situation but wait until the term of office has expired and then allow that new measure to take effect, the four-year measure to take effect from that moment when new local government elections take place. So it appears to me that if it were the intention of the Government at that point in time that it would apply only to future councillors, that that was not an unreasonable position. It is quite reasonable. Because as the Privy Council said, to apply to incumbents and postpone a vote is, to some extent, a violation of the statutory democratic right of a voter.

So the man on the Priority Bus Route could be forgiven for thinking, that when in November 2022, this Act was passed, the Miscellaneous Provisions (Local Government Reform) Act amending the term of office of councillors and aldermen taking effect from November 2022, it was intended that it would apply to future councillors and not the incumbents, so that when the incumbents' term of office expired in early December, that expiration would take place and the new set of councillors coming in would serve for four years.

However, the position was clearly taken and, again, the man on the—travelling on the Priority Bus Route would be forgiven for thinking that the Government in its wisdom perhaps in November 2022 decided for practical reasons and it may well be for good reason as well, I am not doubting the bona fides of the Government on the issue, it may well be for good reason to postpone the election by a year and the passenger on the Priority Bus Route might think, as the Government worked out, how can we effect this postponement, perhaps as an afterthought it was felt that, you see this Municipal Corporations Act, we can enact it and argue that its terms apply to the incumbent. Whether that was the thinking in the first place does not appear, to me, to be very clear on the evidence. It appears that that thinking about the interpretation of the provision originated when the decision was taken to extend, to postpone the election by a year.

And again, I emphasize, not to deny anyone their vote. The Government is there vested with the authority to act for good governance and peace and their policy—I accept, as a presumption that their policy decisions are based on that principle. But in the final analysis the effect of it is, when this became law the Government was relying on a provision which did not make it clear in expressed language that the term of incumbents was extended by a year and because it did not make it clear in expressed language and because it did not use the opportunity to

make it so clear, it now found itself in a position of having to argue that that is the interpretation by necessary implication or by looking at the statute as a whole and by comparing its other provisions. But the lesson is, where things can be made clear, they should be made clear and one should not have to rely on the principle of necessary implication.

So going on the principle of necessary implication and assumption that the provisions would apply to incumbents, it was enacted, they remained in office until up to October the 18th and then the Privy Council ruled that that interpretation was wrong. The Government acted on an incorrect premise in putting this legislation into effect that it only applied to future councillors. I have heard in this—I have heard in this Chamber and outside of this Chamber as well, as well as even by non-lawyers, forceful arguments. I say forceful only to indicate not necessarily its merit but the verbosity of it, to the effect that the majority got it wrong. It has even been taken to the majority in the Privy Council got it wrong. It has even been taken to the point where, to the extreme where one started adding up the amount of judges in the Court of Appeal and the High Court—

Hon. Senators: [*Desk thumping*]

Sen. E. Welch:—and the dissenting judges in the Privy Council and saying, they exceed the number of the majority.

Hon. Senators: [*Interruption*]

Sen. E. Welch: That is an argument which is surprising and which is without merit.

Hon. Senator: Poppycock.

Sen. E. Welch: And it is something which one ought not to be getting into the back of and advancing. It is almost a violation, I would say, of the rule of law—

Hon. Senators: [*Desk thumping*]

Sen. E. Welch:—and the principles. The fact is, the Privy Council is our apex court. It is the highest court. The fact is, a decision of the Privy Council can be a unanimous decision or a majority decision. Whether unanimous or in the majority, it is the same effect.

Hon. Senators: [*Desk thumping*]

Sen. E. Welch: And where that decision is in the majority, I submit and advance that it is out of order to be delving into the scrutiny of it—

Hon. Senators: [*Desk thumping*]

Sen. E. Welch:—and trying to undermine it and question it and suggest my legal reasoning is superior or that of the dissenters and it is wrong. That is a violation of the court system, the rule of law and the constitutionality of the system of justice. And it is the first time—it is the first time, I have to say in my relatively short 36 years as a practitioner, I have ever seen an approach like this. I do not condone it and I do not associate with it.

Hon. Senators: [*Desk thumping*]

Sen. E. Welch: And I dare say that it is wrong.

Hon. Senators: [*Desk thumping*]

Sen. E. Welch: And, Mr. President, one final point on that issue is that, I would not try to dignify that approach by trying to show the attractiveness of the judgment and reasoning of the majority compared to the minority. I agree with the majority decision but that is enough that it is the majority. There is no room for further scrutiny. It is sufficient to say, that is the majority and that is what prevails.

Hon. Senators: [*Desk thumping*]

7.05 p.m.

Sen. E. Welch: So rather than undue scrutiny, what the principle now is to learn

from that judgement and the lesson to be derived from it, and that is where we collectively in this Parliament going to pass legislation and intended to have certain effect. Especially if it is a significant effect, we must scrutinize it and ensure that it is plain, it is clear, and it carries in its terms the effect we intended to have rather than relying on this principle of implied and implication by necessity. And that is what we must take from that decision going forward.

And it is a point which I made on earlier during a debate this year, and I just digress to make the point, Mr. President. Perhaps it was not on legislation which was being prominently featured as this Bill, but it is a point which I made, where there is the opportunity to make something clear, make it clear, and that was during the debate on the Firearms (Amdt.) Bill, where I have not gone to the extent of trying to find *Hansard* and that sort of thing, but where the *Hansard* would reflect that I expressed my concern that when it comes to the issue of Tasers. If what the Parliament is doing is trying to include Tasers within that framework and that definition, then it should expressly come out and say so. And it does not take anything more than two or three birds to actually do it. I had expressed that concern on that occasion because in order to come to the conclusion or the opinion that Tasers are within the Firearms (Amdt.) Act you had to take one provision add it to another, and take three birds out of a third provision bring them all together and come to that conclusion.

So it is a warning which I give, and it is a morning which I warn myself because there is a principle of collective responsibility in this Parliament, which includes me, that we need in the future to be conscious and be careful of legislative

measures and their meaning where it can be made clear do not let the opportunity pass. We ought not to feel any embarrassment or shame over the fact of what has already occurred, because it is not unusual that things are not anticipated and it is only when the court gives guidance we tend to appreciate with hindsight what could or needed to have been done. Except in this case, as I pointed out, having regard to the history which Sen. Mark had pointed out as to the interchanges between the Leader of the Opposition and the then Attorney General I see that as a prime opportunity to have taken measures which would have led to us today using this time perhaps to debate something else.

Hon. Senators: [*Desk thumping*]

Sen. E. Welch: I would wish to make just one or two other points, Mr. President, in point form, and one is this: It has been referenced to the fact that postponements have taken place in the past, extension of terms, et cetera, but I am pretty sure even though I have not had the time to examine them since they were raised here they were done in a manner which made the position clear. So it is not an argument in support of what occurred here to say well this has what happened in the past. Because with closer scrutiny and examination we might find that in those instances in the past, a more clinical approach had been taken.

Another point I would wish to make is that we keep speaking of just extension of the office and extension of the office by three years to four years, and perhaps that is throwing one off from the real significance and impact of the decision. It is not just the extension of the office three to four years but it is the consequential impact which is effectively that leads to that which is the

postponement of the election. That is the pivotal matter when it comes to that, and the democratic right which is being spoken of as being violated.

So, Mr. President, again, I say we move forward. I have no doubt in my mind that these comprehensive changes have been made with good intentions by the Government, I do not regard it as some deliberate attempt to violate anyone's rights or any such thing. It forms part of an entire package of local government reform, significant to which, looking at the previous legislation, the Local Government Reform Act, the several amendments indicate a lot of thought, a lot of time has gone into it, and I commend the policymakers for that effort, indeed. But as I have pointed out and will do again, good intentions are not enough. Because as good as your intentions might be, if what is produced amongst to spinning top in mud in the sense that we have gotten nowhere, and now we have come to rectify the past, then effectively you are taking two steps forward and 10 steps backward. So we need to match good intentions with good legislative action.

Hon. Senators: [*Desk thumping*]

Sen. E. Welch: And then use every opportunity that provides itself to put legislative measures in place which effectively carries out that good intention. We cannot be sloppy about it. You cannot ignore advice, no matter from what quarter it comes, whether it is the opposing side or whatever, wherever you get that notice from you act on it and take it seriously, and this is why I went into the example of what occurred when the Bill was piloted in 2019 and 2020 to demonstrate there was enough time and opportunity before it became law to rectify it because it was brought to your attention.

So we are where we are and no one can change that. And because we are where we are, and we need to rectify the position, I repeat, I am in camp of the Government with this Bill, and will vote yes to it, but I am taking my corner in that camp and having my beer and bar-b-que chicken all by myself. Mr. President, this will be all.

Hon. Senators: [*Desk thumping*]

Mr. President: Attorney General.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you, Mr. President. We have had a long day and I do not propose to be long. Let me acknowledge the quality of the contributions that we have had today, in particular the contributions from the Independent Bench, and perhaps I should begin with the last Member of that Independent Bench, Sen. Welch, I thank him for his unequivocal expression of support for the Bill which we are here today on.

Let me make it clear at the same time, as appreciative I am for that reasoned, sensible and commendable decision, but that I part company with Independent Sen. Welch if, and perhaps I misunderstood him, if the suggestions that fell from his lips were to suggest that freedom of speech in this hallowed Chamber is restricted. Because I think that one of the most important qualities of the contribution which we must bring to this Chamber, in particular, as an expression of the freedom which we exercised throughout the length and breadth of this country, is the right, respectfully, to exercise freedom of speech to make commendation as well as

criticism, and therefore I start my wind-up by repeating what I have said throughout my pilot, and it is to say that this Government accepts unequivocally the decision of the majority of the Privy Council and it is why we are here.

But in saying that I do not relinquish either on my own behalf or on behalf of others for whom I have great respect, the right of those persons to say that I depart from the reasoning even as I accept it, because the nature of the civilization which we proudly belong to, and which we are committed to improving with every breath in our body, is to develop and evolve our capacity to better ourselves, and one of the most unique ways in which we who belong to the species of homo sapiens can advance is to exercise that God-given right of thinking in acute critical terms to develop our capacity to build, to evolve and to better our civilization. So as much as I accept, and on behalf of the Government proudly proclaim that we accept the decision of the Privy Council and we are here for that reason, I do not for one moment accept that it is not my right to say why, as accepting as I am, it is yet a decision that I have difficulty with for reasoned decisions which I am always happy to discuss with my good and learned friend Sen. Welch.

7.20 p.m.

Moving on from that, I pay tribute to the other contributions which have been made, Mr. President, by those other Senators who have spoken today. And I welcome the endorsements that I have listened to from Independent Bench who have articulated their critical support, and I accept critical support.

I think that there are just one or two things that I will dwell on very briefly because, as I said, I do not intend to prolong my wind up this evening. One of those is to correct something that Sen. Mark, in his usual impassioned terms, I

think allowed himself to say, which was that the Government—or rather the Opposition had made a proposal in the other House with reference to deleting clause 5. And I just want to put on record that the understanding which is recorded in the *Hansard*—and I took the trouble before coming here to order a copy of *Hansard*, I am not going to read from it, but I will simply make reference to the page numbers. It is the unedited urgent request copy of *Hansard* of the 29th May, 2023, and it records all the contributions which we made in the other place. And the record will show unequivocally that the Leader of the Opposition; Member of Parliament, Saddam Hosein, Member of Parliament for Barataria/San Juan; Member of Parliament for Chaguanas West; Member of Parliament for Siparia all recommended, and this is where I think I need to correct the record, that clause 5 be deleted in its entirety. There was no suggestion from the Opposition in the other place for any amendment to clause 5.

And indeed the amendment that is sought to be made in the House today by Sen. Mark is exactly that which was recommended in the other place by the Opposition, the entire deletion of clause 5, which is a far cry from the recommendation that I will be moving at committee stage for an amendment of a part only of clause 5. So I just want that to be corrected for purposes of the record. The pages of the *Hansard* that I have that record the other sides contribution are pages 34, 76, 87, 103 and 104. And they are there to be read by those who would take the trouble to read them.

The other point that I would make, Mr. President, very briefly, is that there is—and I say this in response to an invitation that came from Sen. Dr. Deyalsingh. There is a clear position—and this is in answer to the question that he said that had been sent to him and he was hoping that some assistance will be given. There is a clear position falling from the Privy Council. The amendments that were

proclaimed do not apply to incumbents and with effect from the 18th May, 2023, the offices came to an end. The whole purpose of this validation Bill is to give life and continued efficacy to the acts and functions of those officers whose terms came to an end with the decision of the Privy Council of the 18th May. So I hope that that assists in answering the question which concerned the Member of his municipality who wished to have the position clearly articulated.

I want to commend the other Senators on the Independent Bench for their clarity in accepting the fact that the three objects of this Bill are very clear, as Sen. Vieira SC and others have articulated. And therefore, Mr. President, without any further ado, I thank you and I beg to move.

Hon. Senators: [*Desk thumping*]

Mr. President: Hon. Senators, before I continue on with the procedure, I would ask the Acting Leader of Government Business to, at this point in time, move the requisite Procedural Motion.

PROCEDURAL MOTION

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Mr. President. In accordance with Standing Order 14(5), I beg to move that this Senate continue to sit until the completion of the business at hand inclusive of the matters on the adjournment.

Question put and agreed to.

MUNICIPAL CORPORATIONS (EXTENSION OF TERMS OF OFFICE AND VALIDATION) BILL, 2023

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Okay. Hon. Senators, there are five clauses and a Preamble in this Bill. There have been two circulated amendments thus far, one from the Attorney General and the Minister of Legal Affairs, as well as another from Sen. Mark. So those are the ones that we have and when we get to the respective clauses we will treat with those amendments. As such, we shall now begin.

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

Clause 5.

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

Mr. Chairman: We will start with Sen. Mark's amendment. Sen. Mark.

Sen. Mark: Yes, Mr. Chair. Under clause 5 of this Bill, the Government had knowledge of this Privy Council judgment three days before its issuance, formerly, on the 18th. The Government had sight of the Privy Council's judgment—

Sen. Lutchmedial: It is called an embargoed judgment.

Sen. Mark:—an embargoed judgment. So the Attorney General was fully aware of this judgment before it was issued on the 18th May, 2023. The Government sat on its laurels for that entire period allowing councillors and aldermen to function knowing fully well that the Privy Council had determined that they were operating illegally from the 3rd of December, right up to the time when that judgment was handed down.

So here it is, Mr. Chairman, we were saying in our proposal to delete clause 5 that at the material time when this clause was placed in this piece of legislation, the Government knew and they facilitated, right, this particular—

Hon. Senator: [*Interruption*]

Sen. Mark: “Who say I say it three times.”

Mr. Chairman: Sen. Mark, continue with your intervention

Sen. Mark: So what we are saying, Mr. Chairman, is that the Government and so

on, simply committed an illegality for the entire period up to this time as we speak and the Government is guilty of not acting properly. They showed utter contempt for the Privy Council's judgement and they have now come to this Senate to try to undo what they knew all along they ought to have done, and that is cut off all councillors and aldermen from carrying out any future functions after the 18th and allow the CEOs and the mayors and chairmen to carry out those functions, as they are going to do, Mr. Chairman.

So what we are suggesting is that this illegality that this Government has engaged in is unacceptable and the Opposition will have no part of that arrangement that the Government deliberately, calculatedly and premeditatedly executed and allowed councillors and aldermen to carry out illegal actions and take decisions when they knew, Mr. Chairman, that the Privy Council judgement was in their possession three days before the 18th. On that basis, we are advising that this entire clause be removed.

Mr. Chairman: Sen. Vieira.

Sen. Vieira SC: Thank you, Chair. Mr. Chairman, through you, I would like to ask Sen Mark, just for my own edification, if we were to go along with his proposed amendment to delete clause 5, what effect would that have on the municipal corporations and what would be the position regarding the work done in those municipal corporations since December 2022?

Sen. Mark: Yeah, Mr. Chairman. I am saying, if you look at clause 3, you will see where clause 3 captures:

“The terms of office of the councillors and aldermen which expired...”—
between this period—“...are hereby extended on the 18th May...”

Thereafter, the offices that are supposed to be alive are the offices that are in the MCA, which is, Mr. Chairman, whenever the offices of aldermen and councillors

expire under the law, it is the chairmen, the mayors, the deputy mayors and the administrative staff, inclusive of the CEO and administrative officers, who conduct and execute the duties of the 14 regional corporations.

7.35 p.m.

The Government, through the Attorney General, has to explain to this Parliament and to the country why did the Government not take action to uphold the Privy Council judgment and the law; and why they sat on their laurels for almost one week and a half? I remember reading in the newspapers where councillors from the PNM corporations were saying they were conducting business as usual, and the reason why they were doing that is because the Attorney General and the Minister of Rural Development and Local Government never contacted these people and issued an order. That is what happening and they are coming here now to get the Parliament—

Sen. Mitchell: Mr. Chairman, I object.

Sen. Mark:—to deal with an illegality.

Sen. Mitchell: No, he is—

Mr. Chairman: Okay. So again—Members, Members, Members. Members, there is a simple procedure that we follow that the mover of the amendment is allowed to indicate why briefly as to why he is moving that amendment. Sen. Vieira has asked a question to which Sen. Mark has responded. We have Sen. Deonarine who wishes to make an intervention, as well as Sen. Lutchmedial. I will ask the AG just to respond at this middle part and then I will allow Sen. Deonarine and Sen. Lutchmedial to contribute. Attorney General.

Sen. Armour SC: Thank you, Mr. Chairman. My request to intervene is really to ask clarification from Sen. Mark, if I may?

Mr. Chairman: I will allow you to do that when everybody has said their piece.

You will make it much more efficient, but then you can respond to everybody at one time.

Sen. Armour SC: Well, not the clarification I seek to get from Sen. Mark, because it is clarification that is only in his knowledge.

Mr. Chairman: Okay. Continue.

Sen. Armour SC: Would Sen. Mark please advise me how is it that he has come to the information that tells him that the Government was in possession of the judgment three days before it was publicly released? Could he please advise me of that?

Mr. Chairman: Sen. Mark.

Sen. Mark: I am not compelled to answer the AG on any matter.

Hon. Senator: But he plead the fifth.

Sen. Mark: I am not compelled to answer you on any matter.

Hon. Senator: You like the Piarco man.

Mr. Chairman: No, no, no. No, no, no. All right. So question asked, answer given. Sen. Deonarine.

Sen. Deonarine: Thank you, Chair. I have a question too, to Sen. Mark, because I myself am seeking clarification. In the event that we accept this proposed amendment by Sen. Mark to remove clause 5, my simple question is: What exactly in this Act or in this Bill would speak to validating the actions of those aldermen and councillors for the period in which the Act is dealing with, December 2nd, 2019 to the 18th May, 2023?

Mr. Chairman: So that is a similar question asked by Sen. Vieira to which Sen. Mark did respond. As far as I remember he spoke to clause 3 in his opinion specifically. So what I—

Sen. Deonarine: But—

Mr. Chairman: Go ahead. Seek further clarification—do you need further clarification?

Sen. Deonarine: Yes. Thank you, Chair. Clause 3 in my respectful view speaks to the terms of the office not necessarily the actions that were done or executed by these councillors and the aldermen. So I am just seeking clarification.

Mr. Chairman: Okay. So I will allow Sen. Lutchmedial before Sen. Mark response to that, and then the Attorney General will close off with his final response to comments made. Sen. Lutchmedial.

Sen. Lutchmedial: Thank you. Chair, it is not the terms of the office as in terms and conditions as being extended by paragraph 3. This is the terms of office. If your office is extended to the 18th May, then everything you do is valid. This clause 5 was inserted there because there was an attempt to now rectify what transpired after the 18th of May when there was no clarification given and certain things were done. And then even more dangerous—and the issue raised by the Opposition and the concern we had was about up until the commencement of this Act, meaning that there was need for assent and so on, so that councillors and aldermen may have been able to continue to function and we may have been validating things that could have happened yesterday when councillors and aldermen may have been doing things. We are not inside of every corporation. So this entire clause 5, if you were to take off now what the Attorney General is proposing to take off, having been called out on it, and you are taking off “and thereafter exercise the functions of councillors and aldermen up to the commencement of this Act”, then clause 5 would sort of be superfluous because the office is saved to the 18th May.

With respect to how the knowledge came about the embargo judgment, I just wanted the respond to the Attorney General’s concern—if that is a matter I

would—it was made in a comment by Mr. Martin Daly in the media appearing on the news on the 19th May. The day after the decision was handed down, he spoke about embargo judgment and questioned why the Government did not act when they had knowledge of it prior. So I just want to put that on the record since the concern was raised.

Mr. Chairman: Okay. Attorney General.

Sen. Armour SC: Thank you, Mr. Chair. Thank you very much. I will say three things, Mr. President. One, is to delete the clause in its entirety as Sen. Mark requests would be a very dangerous state of uncertainty, and I entirely reject the request to delete the clause in its entirety. I do that here as I did in the other place when precisely the same amendment was sought to be made. The second thing that I say is that, I cannot speak for what newspaper columnists or other persons speak to, to the extent that Sen. Lutchmedial seeks to answer the question that I asked Sen. Mark, that is to say, what was his source of information that the Government was in possession of the judgment.

What I can say is that I had been advised by the attorneys for the State that they had been issued to the attorneys a draft judgment which they were not allowed to disclose to clients. And it had been disclosed to the attorneys for the purpose of the attorneys stating whether there were any grammatical or other corrections to be made to the judgment, and there was a very strict contempt of court embargo. I was advised by the attorneys representing the State that if they even attempted to disclose the judgment to the client which I represented or discussed its terms, both the client and the attorneys would be held in contempt of court. So that is why I am very interested to know how Sen. Mark is seeking to interrogate me about my knowledge of a judgment which his knowledge of is tantamount to being in contempt of the Privy Council.

Sen. Mark: Well you could say—[*Inaudible*]

Mr. Chairman: No, no, no. Sen. Mark—

Hon. Senators: [*Desk thumping*]

Mr. Chairman: Enough! Enough! Enough! Minister of Tourism—Sen. Mark. So all comments have been responded to by the Attorney General. Sen. Vieira is there something new?

Sen. Vieira SC: Yes, Chair. Well I had asked the question of Sen. Mark earlier, but I just wanted to comment that my understanding of clause 5 is that it addresses a concern that was raised by the Privy Council about the Bill not having transitional provisions, and that the reason we need to maintain clause 5 is that it is in fact a transitional provision clause.

Mr. Chairman: Okay. So I shall now put the question.

Question, on amendment [Sen. Mark] put.

Amendment negatived.

Mr. Chairman: Hon. Senators, we shall now put the question to clause 5 in terms of the AG's amendment. So AG I will allow to make your comments in relation to that.

Delete the words “and thereafter exercised the functions of Councillors and Aldermen up until the commencement of this Act.

Sen. Armour SC: Thank you very much, Attorney—Mr. Chair. Thank you very much. I beg your pardon. The amendment has been circulated and if we go to the third line of clause 5 the third line of clause 5 begins with the 18th May, 2023. The word thereafter to be deleted are:

“...and thereafter exercise the functions of Councillors and Aldermen up until the commencement of this Act.”

So those words should be deleted so that clause 5 if those words are to be deleted

will read:

“Where the Councillors and Aldermen under section 3 exercise the functions of Councillors and Aldermen between 2nd December, 2022 and 18th May, 2023, the exercise of those functions and all acts or things done pursuant thereto shall be deemed to have been as valid and effectual as if the Municipal Corporations Act expressly empower them to exercise those functions.”

That is the amendment I asked for.

Mr. Chairman: Any responses? No? Okay, so I shall now put the question. Hon. Senators, the question is that clause 5 be amended, as circulated, by the Attorney General.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Mr. President: Attorney General.

Hon. Armour SC: Thank you, Mr. President. Mr. President, I wish to report that the Municipal Corporations (Extension of Terms of Office and Validation) Bill, 2023, was considered in the committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee’s report.

Question put and agreed to.

Bill accordingly read a third time and passed.

Mr. President: Acting Leader of Government Business.

ADJOURNMENT

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Mr. President, I beg to move that this Senate do now adjourn to Friday, June 2nd, 2023 at 1.30 p.m.

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

**FCB Loans Extended and Shares Invested
(Status Report)**

Sen. Wade Mark: Thank you, Mr. President. Mr. President, I have two matters that I would like to raise on behalf of the citizens and the people. The first deals with the need for the Minister of Finance to provide a status report on the loans extended and shares invested by the First Citizens Bank in both Cornerstone Financial Holdings Limited and Barita Investments Limited given their impending reorganization.

7.50 p.m.

Mr. President, there is in fact a document I have in my possession, it is Cornerstone Financial Holdings Limited. It is on page 17. It deals with their financial audited accounts or a report for the period ended September 30th, 2022. Now before I get into this actual statement, I have raised this matter of FCB lending moneys, foreign exchange, US currency, to a Jamaican company by the name of Cornerstone Financial Holdings Limited. This is an offshore company, you do not know the names of the directors, we do not know who the shareholders are and I raised this matter since 2021 to get answers. I now have answers.

Mr. President, in this financial statement of Cornerstone Financial Holdings Limited, which is an unlisted company on the Jamaican stock exchange, we see

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under long-term loans, the FCB bank loaned to this company US \$25 million. Then we saw in that same, and that is 2022, Mr. President. Apparently, they got the loan in 2021 and the loan remained outstanding in 2022. Then, there is another loan for US \$15.1 million. They got it in 2021, it remained outstanding in 2022 and the last loan I see on this statement is for US \$20 million which they got in 2022.

Mr. President, it would mean that Cornerstone Financial Holdings Limited got from the FCB, a sum of US \$60.1 million. And what is even more amazing, I have a document here from Anthony Wilson which is stating that they could have gotten up to US \$80 million and the only collateral is, or shares in a company called Barita which is owned 75 per cent by Cornerstone Financial Holdings Limited. It is himself to himself. The question that we are asking is this. The loan was supposed to be repaid, according to the document I have in my possession on April—sometime in April of 2023. The loan has now been extended to 2027.

Now I have also in my folder a document that says and I read:

Barita to be delisted from the Jamaican stock exchange.

Now my issue and the need for clarification is one, two-fold. Could the Government tell the people of Trinidad and Tobago what portion of the US \$60.1 million that is in this financial statement of the Cornerstone Financial Holdings Limited has been repaid? That is the first area that we want clarification on. We also would like to know if any further loans were extended to Cornerstone Financial Holdings Limited after this US \$60.1 million loan that was granted. If so, how much? We are reading where Barita, which is owned 75 per cent by Cornerstone Financial Holdings Limited and of which FCB has 7.2 per cent ownership in Barita, with shares of some 90 million shares, we would like to know

the state of play with those shares. What is the state of play with those shares?

So here it is FCB, I am a shareholder in FCB, there is a shortage of foreign exchange in Trinidad and Tobago, you want to go abroad, you could only get 200 and “yuh ha tuh beg tuh get it”, yet still a fly-by-night organization called Cornerstone Financial Holdings Limited, less than five years in existence, is an offshore company, we do not know their directors, we do not know their shareholders, yet still the Government bank, which is our bank, lends to that company Mr. President, according to the audited financial accounts of this institution called the Cornerstone Financial Holdings Limited, we are seeing, Mr. President, where on the books, US \$60.1 million. So what we are asking is the level of exposure—

Mr. President: Senator, you have two more minutes.

Sen. W. Mark: Thank you, Mr. President. The level of exposure of our bank called FCB in the event that this company who we are learning from the document that I have before me its major client is Barita, they own 75 per cent. That company is about to be delisted, and when that happens, what will happen to the 90 million shares that are owned by FCB in Barita Investments Limited? So these are some of the issues that the shareholders and customers of FCB are asking.

So I am calling on the Government to provide some clarity to the country on this matter. One, in closing, 60.1 million, how much has been repaid; what is the quantum that has been loaned since then, and in terms of the shares, what is the happening with the delisting of Barita Investments Limited, what will happen to the shares owned by the FCB on behalf of the citizens when that takes place, Mr. President? These the two issues I would like to have clarified.

Mr President: Minister in the Ministry of Finance.

The Minister in the Ministry of Finance (Hon. Brian Manning): Thank you,

Mr. President. As it relates to the loans extended and shares invested by First Citizens Bank in both Cornerstone Financial Holdings Limited and Barita Investments Limited given their impending reorganization, I am advised that pursuant to section 55 of the Financial Institutions Act, Chap. 79:09 of the revised laws of the Republic of Trinidad and Tobago, First Citizens Bank Limited or the bank as a licensed financial institution is not permitted to disclose information in accordance with the section below:

“(1) No licensee, financial holding company, controlling shareholder, significant shareholder or affiliate of a licensee and no director, officer, employee or agent of a licensee, financial holding company or other controlling shareholder or affiliate who receives information relating to the business or other affairs of a depositor or customer of the licensee or of any other person shall disclose the information unless-

- (a) the disclosure is required under compulsion of law;
 - (b) there is a duty to the public to disclose the information;
 - (c) the interest of the licensee requires disclosure; or
 - (d) the depositor or customer expressly or impliedly consents to the disclosure.
- (2) No person who obtains information referred to in subsection (1) directly or indirectly from a person referred to subsection (1) shall disclose the information without the consent of the person to whom it relates and the person from whom it was received.
- (3) Notwithstanding subsection (1), a licensee or a person authorised by the licensee may, with the consent of the depositor, customer or other person concerned, exchange information with another licensee.

- (4) This section does not apply to information which at the time of disclosure is or has already been made available to the public from other sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.
- (5) A person who discloses information in contravention of this section commits an offence and is liable on summary conviction to a fine of six hundred thousand dollars and to imprisonment for two years.”

Regarding public notices on the reorganization of Barita and Cornerstone, it should be noted that under the laws of Jamaica, this is a matter for the regulator in Jamaica, the Bank of Jamaica which is equivalent to our Central Bank. It should be further noted that in March of 2023, the Bank of Jamaica confirmed that pursuant to section 7(1)(c)(ii) of the Banking Services Act, 2014 or BSA, the supervisory committee of the bank had its meeting held on 1st of March, 2023 raised no objection to the proposing reorganization of the Cornerstone group on condition that the off-balance-sheet vehicles, Barita finance limited and MJR Real Estate Holdings Limited, be consolidated in the financial group for prudential reporting purposes pursuant to section 71(2) of the BSA. At this time, therefore, First Citizens Bank has no cause for concern arising from this reorganization.

Regarding FCB’s investment in Barita, the value of FCB shares in that company has increased by over US \$7.5 million or over TT \$50 million since the shares were acquired by FCB and FCB has so far received over TT \$24 million in dividends from this investment.

Mr. President: Minister, you are done?

Hon. Senators: *[Interruption]*

Hon. B. Manning: Yes.

Mr. President: Sen. Mark.

**Methanol Holdings International Limited
(Government's response to the auditor's findings)**

Sen. Wade Mark: Thank you, Mr. President. The second matter I want to raise here is the need for Government to make public its response to the auditors' findings in Clico's annual reports for the period 2018 to 2022 on the market value of the assets of Methanol Holdings International Limited.

Now, Mr. President, we got a statement from the Minister some time on 15th of November 2022 when the very Minister who is here today told us and I quote:

“...this validation was completed in 2022 and shall be reported in Clico's 2022 financial statements.”

End of quote. Since then, Mr. President, I have seen on behalf of the party, the Clico financial report for 2022. There was no independent valuation report contained in the 2022 Clico financial statement as promised by the hon. Minister. So the question that we sought to clarify when we went into this report issued by Clico for 2022, what did we see? We saw an in-house valuation conducted by Clico.

Now the question that is being asked and we need clarification on is very simple and straightforward, and I hope that the Minister can provide answers.

8:05 p.m.

We had two valuation reports, one according to the Minister, an independent valuation report. And we saw in the 2022 Clico report, an in-house valuation report. Subsequently, or subsequent to that, Mr. President, what happened? The Government sold 36 per cent of the 56 per cent owned by the company known as Clico and those shareholdings were under the heading MHIL. The question that is

being asked is that, when NIF bought 17 per cent of the 36 per cent shares that Clico had to divest, under the Insurance Act, which allows it only to own 19.99 per cent shares in MHIL, the question that the country is asking, what was the value placed on the 19 per cent shares that was in fact purchased by Corporation Sole?

Corporation Sole, we understand, bought 19.5, or 6 per cent, of the Clico's 36 per cent shares. And the other, or the remaining, was purchased by the National Investment Fund known as NIF. So 19 plus 17 would give you 36. I would like to ask the Minister: Minister, through the President, which valuation report was used to determine the value of the 19 per cent shares that the Corporation Sole purchased and the 17 per cent shares purchased by NIF? Was it the independent valuation report? Was it the in-house valuation report? The country would like clarification from the Minister of Finance on exactly those questions. And most importantly, the very Minister of who is here today, when he last came, he told us everything was "hunky-dory", everything was fine, except one thing, Mr. President, the share register was not updated.

So the ownership of 36 per cent—19 per cent Corporations Sole, 17 per cent NIF—who owns those shares as we speak? Because I would like to ask the Minister, through you, whether the share register has been updated. Because in January it was not updated, in February it was not updated, in March it was not updated. We are now on the 1st June. So we would like to know if the register of these shares that are supposed to be transferred to Corporation Sole and to NIF, has the register been updated? That is what we would like the Minister to tell this honourable House. Has the shareholders register been updated? That is the issue.

Or is there a dispute? Is there a dispute? Is there “bacchanal” taking place? And the Minister needs to tell the country the truth.

Mr. President, in closing, there is a \$700 million difference between the independent valuation and the in-house valuation. That is why we need the Government to clear the air as to which one was used to sell Corporation Sole 19 per cent shares and NIF 17 per cent. Was it the in-house? Was it the independent? Because there is a lot, a lot more to be disclosed. Not now, not today, I will pause and allow the Minister to clear the air on behalf of the citizens of Trinidad and Tobago. Clico’s shares belong to the taxpayers, and if you sell Clico’s shares, give us proper value for those shares.

So, Mr. President, I want to thank you for giving me the opportunity to speak and to raise the issues on behalf of the citizens who would like to know what is happening to their 36 per cent shares, which valuation report was used, and what was the value attached. And I would like to just say in a minute, could the Minister provide this Parliament with the shareholders agreement, the sale and purchase agreement, and the final valuation of these shares? Thank you, Mr. President.**Hon. Senators:** [*Desk thumping*]

Mr. President: Minister in the Ministry of Finance.

Hon. Senators: [*Desk thumping*]

The Minister in the Ministry of Finance (Hon. Brian Manning): Thank you, Mr. President. If Sen. Mark had taken the time to read, interpret and understand the publically available information on Clico’s financial statements, the hon. Senator would have seen and understood that Clico’s 2021 Financial Statement, at

page 61, under item 4.3, statements in “Investments in Subsidiaries”, make the following clear statement regarding the valuation of MHIL shares, and I quote:

“The Company’s investments in subsidiaries are stated at fair value and categorised as Level 3 of the fair value hierarchy. The total carrying value of these assets is \$2.61 billion (2020: \$2.58 billion), representing 19.8% (2020:19.1%) of total assets. The Company has not disclosed a description of the valuation techniques and the quantitative information about significant unobservable inputs used in the fair value measurements for the significant subsidiary as a disclosure would bring CLICO - MHIL into contempt of a Court Order. The final determination of the matter is in the Court of Appeal. However, the information has been presented to the Company’s Auditors.”

It should be clear from this that the auditors wanted to do their own analysis, investigation and research to establish the value of MHIL rather than rely on valuations submitted to them by Clico.

However, based on evaluation done in 2022 by Charles Rivers Associates, a leading global consulting firm, headquartered in Boston, Massachusetts, USA, that offers economic, financial and strategic expertise to major law firms, corporations, accounting firms, and governments around the world, the mid-range valuation of Clico’s 56.3 per cent shareholding in MHIL was determined to be US \$337,010,000, or TT \$2.3 billion. In particular, Charles Rivers Associates stated as follows, and I quote:

As of the valuation date, June 30, 2022, the mid case reasonably estimated fair value of MHIL’s aggregate equity on a non-marketable basis is

\$596,000,162, or \$59.61 on a per share basis, with a low case value of \$518,278, or \$51.82 per share, and the high case value of \$655,810, or \$66.57 per share.

8.15 p.m.

The mid case reasonably estimated fair value of Clico's 56.53 per cent holding of MHIL shares on a nonmarketable basis is therefore \$337, 010 with a low case value of \$292,983 and the high case value of \$376, 382.

This valuation was commissioned while Clico was under the supervision of the Central Bank with the approval of the Central Bank and accepted by the Central Bank in 2022, as an appropriate basis for the sale of Clico shares in MHIL to third parties. The Government therefore has no problem with this valuation. Thank you.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.16 p.m.