

The Second (2nd) Interim Report of the **Special Select Committee (Senate) on the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023**

Dated: May 29, 2024



FOURTH SESSION OF THE 12TH PARLIAMENT (2023/2024)

2ND INTERIM REPORT

OF

THE SPECIAL SELECT COMMITTEE OF THE SENATE

APPOINTED TO CONSIDER AND REPORT ON

A BILL ENTITLED, “AN ACT TO AMEND THE JURY ACT, CHAP. 6:53 AND THE
CRIMINAL PROCEDURE ACT, CHAP. 12:02 AND FOR RELATED MATTERS”

MP PARL: No.

Senate Paper No. of 2024

[Ordered to be printed by the Senate]

Date Laid in the Senate: dd/mm/year

Committee Mandate

Pursuant to a resolution of the Senate on Tuesday January 23, 2024, a Special Select Committee was established to consider and report by March 31, 2024 on the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023.

Committee Membership

Mr. Reginald Armour, SC - Chairman
Mr. Randall Mitchell
Ms. Allyson West
Mrs. Renuka Sagramsingh-Sooklal
Mrs. Jayanti Lutchmedial-Ramdial
Mr. Anthony Vieira, SC
Prof. Gerard Hutchinson

Secretariat Support

Mr. Julien Ogilvie, Deputy Clerk	Secretary
Ms. Sherlana Ramdeen, Assistant Clerk	Assistant Secretary
Ms. Cherylee Legair, Parliamentary Research Specialist	Researcher

Contact

The Secretary
Special Select Committee (Senate) on the Miscellaneous Provisions (Trial by Judge Alone), 2023
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Date Laid in Senate: dd/mm/2024

Senate Paper No.:

PARL No.:

CHAIRMANSHIP

1. Pursuant to a resolution of the Senate on Tuesday January 23, 2024, Mr. Reginald Armour, SC was appointed to be Chairman of the Committee, in accordance with **Standing Order 85 (2)**.

INTERIM REPORTS

2. The Committee's First Interim Report was adopted in the Senate on Tuesday April 16, 2024. The Committee requested and was granted an extension to complete its work and report by May 31, 2024.

WORK TO DATE

MEETINGS

3. Since the presentation of the First Interim Report, the Committee held two (2) meetings on the following dates:
 - a) Friday May 10, 2024; and
 - b) Tuesday May 21, 2024.
4. The Minutes of the Meetings are attached at **Appendix I**.

THIRD MEETING

5. At its **Third Meeting** held on Friday May 10, 2024, the Committee received oral submissions from representatives of the **Judiciary of Trinidad and Tobago** as well as the **Judicial Education Institute**.
6. The Committee agreed to include the following stakeholders in the list of stakeholders for an in person appearance/or written submission:
 - (i) Vision on Mission;
 - (ii) Trinidad and Tobago Publishers and Broadcasters Association;
 - (iii) Media Association of Trinidad and Tobago;
 - (iv) Principal of the University of the West Indies, St. Augustine, Campus; and
 - (v) Principal of the Hugh Wooding Law School.

FOURTH MEETING

7. At its **Fourth Meeting** held on Tuesday May 21, 2024, the Committee resumed discussions on the Matrix of Key Issues and Recommendations raised by Stakeholders. The Committee deliberated on the following issues:
 - (i) the ability of an accused to appeal a judge's decision to not grant his application for a

trial by jury and the introduction of procedural appeals as an avenue to treat with same; and

(ii) the reduction of the proposed adjustments in the number of jurors in jury trials.

8. The Committee also considered any further areas for examination arising out of the Judiciary's written and oral submissions, in particular:

(i) the option to utilise expert witnesses as opposed to lay assessors; and

(ii) the prescription of rules, similar to Part 33 of the Civil Proceedings Rules in relation to experts and assessors, to guide the expert witness modality.

9. The Committee agreed to invite the Office of the Director of Public Prosecutions to an in-person, (in-camera) meeting to obtain their views on the Bill.

10. The Committee agreed to consider a revised draft of the Bill, reflecting updated provisions pursuant to the Committee's discussions thus far. Accordingly, the Assistant Chief Parliamentary was directed to action this request.

REPORT

11. Your Committee wishes to report that additional time is required to:

- (i) convene an in-camera session with representatives of the Office of the Director of Public Prosecutions;
- (ii) consider the written comments by additional Stakeholders;
- (iii) undertake a clause-by-clause consideration of the Bill; and
- (iv) compile proposed amendments (if any) to the Bill.

12. In accordance with **Standing Order 104 (1)**, your Committee wishes to report that it is unable to complete its work and submit its final report by the stipulated deadline of May 31, 2024.

RECOMMENDATION

13. Your Committee, therefore, recommends that:

- i. It be granted an extension of time to continue its work and report by **July 05, 2024**.
- ii. During the period of extension, your Committee proposes to complete its consideration of oral and written submissions from stakeholders, undertake a clause-by-clause examination

of the Bill and prepare proposed amendments (if any), with the assistance of the Chief Parliamentary Counsel and the Criminal Justice Unit, AGLA.

- iii. In the event that your Committee is unable to complete its work and report by July 05, 2024, that the Senate agree to:
- a. the resumption of proceedings on the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023, in the Fifth Session, Twelfth Parliament; and
 - b. the appointment of a Committee in the Fifth Session, Twelfth Parliament to complete the work on the Bill and adopt as part of its records, all work completed by the Committee appointed in the Fourth Session (2023/2024).

Respectfully Submitted,

Mr. Reginald Armour, SC
Chairman

Mr. Randall Mitchell
Member

Ms. Allyson West
Member

Mrs. Renuka Sagrarsingh-Sooklal
Member

Mrs. Jayanti Lutchmedial-Ramdial
Member

Mr. Anthony Vieira, SC
Member

Professor Gerard Hutchinson
Member

May 29, 2024

APPENDIX I

ATTENDANCE RECORD

AND

MINUTES OF PROCEEDINGS

ATTENDANCE RECORD
SPECIAL SELECT COMMITTEE ON
THE MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2023

MEMBERS	1ST MEETING 19.03.2024	2ND MEETING 26.03.2024	3RD MEETING 10.05.2024	4TH MEETING 21.05.2024
Mr. Reginald Armour, SC (Chairman)	√	√	√	√
Mr. Randall Mitchell	Exc.	Exc.	√	√
Ms. Allyson West	Exc.	√	√	√
Mrs. Renuka Sagrainsingh-Sooklal	√	√	√	Exc.
Mrs. Jayanti Lutchmedial-Ramdial	√	√	√	√
Mr. Anthony Vieira, SC	√	√	√	√
Professor Gerard Hutchinson	√	√	√	√

*exc- excused

abs- absent

**MINUTES OF THE 3rd MEETING,
[4th SESSION (2023/2024), 12th PARLIAMENT]
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2023
HELD IN THE J. HAMILTON MAURICE MEETING ROOM
ON FRIDAY MAY 10, 2024**

PRESENT

Members

Mr. Reginald Armour, S.C.	Chairman
Mr. Randall Mitchell	Member
Ms. Allyson West	Member
Mrs. Renuka Sagrarsingh-Sooklal	Member
Mr. Anthony Vieira, S.C.	Member
Mrs. Jayanti Lutchmedial-Ramdial	Member
Professor Gerard Hutchinson	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Ms. Sherlana Ramdeen	Assistant Secretary
Ms. Cherylee Legair	Parliamentary Research Specialist

Office of the Attorney General and Ministry of Legal Affairs

Ms. Lorraine John	Assistant Chief Parliamentary Counsel
Mr. Parvin Sookhai	Senior Parliamentary Counsel
Mrs. Farzana Nazir-Mohammed	Director, Legal, Criminal Justice Unit
Ms. Farah Abdool	Senior Legal Counsel, CJU
Ms. Nalini Ramjit-Ransome	Legal Counsel I
Ms. Chelsea Fraser	Legal Counsel I

CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 9:39 a.m. and welcomed Members present.

ANNOUNCEMENTS BY THE CHAIRMAN

- 2.1 There were no announcements.

CONFIRMATION OF MINUTES OF THE 2nd MEETING HELD ON TUESDAY MARCH 26, 2024

- 3.1 The Chairman invited Members to consider the Minutes page-by-page and enquired whether there were any amendments.
- 3.2 The Minutes were confirmed without amendments on a motion moved by Mr. Anthony Vieira, S.C., and seconded by Ms. Allyson West.

MATTERS ARISING FROM THE MINUTES

- 4.1 **Per Item 6.1 (b), page 3:** The Interim Report of the Committee requesting that further time be granted to the Committee to complete its work and report by May 31, 2024 was laid in the Senate on Tuesday April, 16, 2024.
- 4.2 The Chairman informed the Committee that no submissions have been received to date from the Office of the Director of Public Prosecutions, notwithstanding numerous reminders issued by the Secretariat.
- 4.3 The Committee agreed to receive a written submission from Professor Hutchinson on serving in Court as an expert witness, by Monday May 13, 2024.

DISCUSSIONS ON THE WAY FORWARD

- 5.1 The Committee agreed to the following:
- a) to include the following stakeholders in the list of stakeholders for in-person appearance and/or written submissions:
 - i. Vision on Mission;
 - ii. Trinidad and Tobago Publishers and Broadcasters Association;
 - iii. Media Association of Trinidad and Tobago;
 - iv. Principal of the University of the West Indies, St. Augustine, Campus; and
 - v. Principal of the Hugh Wooding Law School.

DISCUSSIONS IN PREPARATION FOR MEETING WITH REPRESENTATIVES OF THE JUDICIARY AND JUDICIAL EDUCATION INSTITUTE

- 6.1 Members discussed the approach to be taken with respect to the day's private hearing with the Judiciary.
- 6.2 The Committee agreed on the approach to be taken

OTHER BUSINESS

- 7.1 There was no other business.

SUSPENSION

- 8.1 The meeting was suspended at 10:05 a.m.

IN-CAMERA MEETING WITH REPRESENTATIVES OF THE JUDICIARY AND THE JUDICIAL EDUCATION INSTITUTE

- 9.1 The meeting resumed in-camera at 10:13 a.m.

- 9.2 The following persons joined the meeting:

Judiciary of Trinidad and Tobago

The Hon. Justice Gillian Lucky, JA	Justice of Appeal
The Hon. Justice Carla Brown-Antoine, JA	Justice of Appeal
The Hon. Justice Lisa Ramsumair-Hinds	Judge of the High Court
Master Christie-Anne Morris-Alleyne	Consultant
Ms. Kimitria Gray	Deputy Registrar and Marshal of the Supreme Court
Ms. Jamie Philbert	Deputy Court Executive Administrator
Mr. Shervon Lewis	Criminal Division Administrator
Ms. Shalisha Samuel	Judicial Research Counsel I (Research Support)

Key Areas Discussed

- 10.1 The following is a summary of evidence as presented by the Judiciary:

Overview

- i. The Judiciary has been conducting Trials by Judge Alone since 2018; during the time of the pandemic, solely trial by judge alone proceedings were conducted as jury trials could not be safely held.
- ii. The Judiciary's position is that Trial by Judge Alone should be the default for **ALL** crimes.

Tradition, Fairness and the Constitution

- iii. A Trial by Judge Alone honours the principles of natural justice enshrined in the constitution in that it facilitates a fair and impartial trial. It has all of the necessary elements to be fair and just.

- iv. Flexibility and adaptation must be considered when considering tradition – specifically the historical context in which these traditions were established. This is with reference to the age of social media and its impact on juries, leading to possibly juror contamination.
- v. Regrettably, “Fairness” has become to mean ‘what is the greatest probability or possibility for the accused to be acquitted.’ The entire system is being tested – the victim, based on credibility, reliability, honesty and accuracy; the Trinidad and Tobago Police Service and other elements of law enforcement based on their procedures; and the judicial system and its effectiveness.

Challenges of Jury Trials

- vi. Letters of exemption ranged from traditional medical issues such as cardiovascular diseases to mental health issues; lifestyle circumstances such as job security and childcare.
- vii. On the other hand, judicial officers have faced “ridiculous and absurd reasons” for exemptions through blatant attempts to mislead the officers of the Court.
- viii. Jurors are easily influenced by the ‘charismatic attorney’ despite being told that the focus is not on the attorney.
- ix. Jury trials, are deemed to be time consuming as well as “resource greedy” especially as they are bound by the constraint of a physical courtroom.
- x. There is a significant concern regarding the safety of the juror as their personal information such as names and addresses are public.
- xi. Due to the complexity of the instructions given to jurors, there is the potential for a lack of ‘fairness’ in deliberations as some concepts such as provocation can be misunderstood.

Benefits of Trial by Judge Alone

- xii. Judges are well versed in the law; whereas, the average juror has only three (3) to four (4) hours to grasp complex legal concepts before they are to begin deliberations.
- xiii. Trial by Judge Alone results in more ‘agreement’ on the verdict rendered as well as more guilty-pleas.

Bias

- xiv. It is easier to determine the bias of one (1) individual versus that of twelve (12) persons. Furthermore, the risk of bias is further reduced as judges must provide reasons for their verdict.
- xv. Judges are trained to deal with bias as a part of the profession, whereas the average juror does not possess that professional skill and training.
- xvi. Ethnic bias, as well as biases that stem from religious beliefs, are prominent in trial by juries.
- xvii. There is a misconception that judges favour prosecutors in trials; however, statistics of this supposed bias regarding prosecutors and acquittals does not support the notion.

Lay Assessors/Experts

- xviii. While the Judiciary understands the rationale, it does not support the use and introduction of lay assessors. The inclusion of lay assessors within the framework is likely to make the

process more cumbersome and is seen as a troubling substitute for the inefficiencies of the jury system.

- xix. Additionally, to include lay assessors when the existing Jury Act would have otherwise exempted them except in special circumstances is counterintuitive.
- xx. The Judiciary prefers to engage a special expert as is the norm in civil proceedings.
- xxi. Furthermore, the Judiciary indicated that there are particular high court judges that are trained in areas such as anti-money laundering. These training sessions are ongoing where judges have travelled in order to further their knowledge to remain an expert in the subject area.

ADJOURNMENT

11.1 The adjournment was taken at 12:38 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

May 20, 2024

**MINUTES OF THE 4th MEETING,
[4th SESSION (2023/2024), 12th PARLIAMENT]
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE MISCELLANEOUS PROVISIONS (TRIAL BY JUDGE ALONE) BILL, 2023
HELD IN THE ARNOLD THOMASOS (WEST) MEETING ROOM
ON TUESDAY MAY 21, 2024**

PRESENT

Members

Mr. Reginald Armour, S.C.	Chairman
Mr. Randall Mitchell	Member
Ms. Allyson West	Member
Mrs. Renuka Sagrarsingh-Sooklal	Member
Mr. Anthony Vieira, S.C.	Member
Mrs. Jayanti Lutchmedial-Ramdial	Member
Professor Gerard Hutchinson	Member

Secretariat

Ms. Sherlana Ramdeen	Assistant Secretary
Ms. Cherylee Legair	Parliamentary Research Specialist

Office of the Attorney General and Ministry of Legal Affairs

Ms. Lorraine John	Assistant Chief Parliamentary Counsel
Mr. Parvin Sookhai	Senior Parliamentary Counsel
Ms. Farah Abdool	Senior Legal Counsel, CJU
Ms. Nalini Ramjit-Ransome	Legal Counsel I
Ms. Chelsea Fraser	Legal Counsel I

CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 9:40 a.m. and welcomed Members present.

ANNOUNCEMENTS BY THE CHAIRMAN

- 2.1 The Chairman indicated that Mrs. Renuka Sagrarsingh-Sooklal asked to be excused

from the day's meeting.

CONFIRMATION OF MINUTES OF THE 3rd MEETING HELD ON FRIDAY MAY 10, 2024

- 3.1 The Chairman invited Members to consider the Minutes page-by-page and enquired whether there were any amendments.
- 3.2 The Minutes were confirmed without amendments on a motion moved by Mr. Anthony Vieira, S.C., and seconded by Professor Gerard Hutchinson.

MATTERS ARISING FROM THE MINUTES

- 4.1 **Per Item 4.3, page 2:** The written submission by Professor Hutchinson on serving in Court as an expert witness was circulated to Members on May 20, 2024.
- 4.2 A video recording consisting of three (3) clips from the CCJ Academy for Law 7th Biennial Law Conference which took place in Barbados in October 2023 was circulated to Members on May 17, 2024. The Chairman confirmed that Members were in receipt of the recording.
- 4.3 The Chairman informed Members that the Secretariat requested the following information/documents arising out of the private meeting held with the Judiciary on May 10, 2024:
 - a. statistical data in relation to the cost of judge-alone trials as opposed to jury trials;
 - b. statistical data in relation to the number of guilty verdicts obtained in judge-alone trials as opposed to jury trials; and
 - c. latest version of the amendments proposed by the Judiciary to the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023.

CONSIDERATION OF MATRIX OF KEY ISSUES AND RECOMMENDATIONS RAISED BY STAKEHOLDERS (WITH RESPONSES FROM CPC AND AG) DATED MARCH 13, 2024

- 5.1 The Committee resumed its discussion on the Matrix of Key Issues and Recommendations raised by Stakeholders.
- 5.2 The Committee deliberated on the following:
 - a) the ability of the accused to appeal a judge's decision to not grant his application for a trial by jury and the introduction of procedural appeals as an avenue to treat with same; and
 - b) the reduction of the proposed adjustments in the number of jurors in jury trials.

CONSIDERATION OF FURTHER ISSUES ARISING OUT OF THE JUDICIARY'S ORAL AND WRITTEN SUBMISSIONS

- 6.1 The Committee deliberated on the following with respect to the Judiciary's oral and written submissions:
- a) the option to utilise expert witnesses as opposed to lay assessors; and
 - b) the prescription of rules, similar to Part 33 of the Civil Proceedings Rules in relation to experts and assessors, to guide the expert witness modality.

DISCUSSIONS ON THE WAY FORWARD

- 7.1 The Committee agreed to the following:
- a) to accept written submissions from all stakeholders, with the exception of the Office of the Director of Public Prosecutions;
 - b) the Secretariat was directed to invite the Office of the Director of Public Prosecutions to an in-person, private meeting;
 - c) the Assistant Chief Parliamentary Counsel was directed to submit a revised draft of the Miscellaneous Provisions (Trial by Judge Alone) Bill, 2023 to the Committee for its consideration;
 - d) the Secretariat was directed to prepare a Second Interim Report of the Committee to be laid in the Senate, requesting that further time be granted to the Committee to complete its work by July 05, 2024.

OTHER BUSINESS

- 8.1. Due to the hectic Parliamentary schedule, the Committee agreed to schedule its next meeting to a date to be fixed.

ADJOURNMENT

- 9.1 The adjournment was taken at 10:56 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

May 28, 2024

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