

**SENATE**

*Friday, May 17, 2024*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**ACTING CLERK OF THE SENATE**

**Mr. President:** Hon. Senators, at this time I would just like to advise of the circular that was sent to you on Wednesday, from the Clerk of the House, indicating that Ms. Keiba Jacob Mottley has transitioned to another organization and I wish for you to join me in thanking her for her service to the Senate—

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

**Mr. President:**—of the Republic of Trinidad and Tobago. I am also to advise that our new Acting Clerk of the Senate is Ms. Chantal La Roche who is here with us.

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

**Mr. President:** I also wish to welcome her to the Senate of the Republic of Trinidad and Tobago.

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

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Amery Browne, Sen. The Hon. Rohan Sinanan and Sen. Wade Mark, all of whom are out of the country, and to Sen. Hazel Thompson-Ahye who is ill.

**UNREVISED**

**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 accordance with the advice of the Acting Prime Minister, do hereby appoint you, NDALE YOUNG to be a member of the Senate temporarily, with effect from 17<sup>th</sup> May, 2024 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Dr. Amery Browne.

**UNREVISED**

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 16<sup>th</sup> day of May,  
2024.”

“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. MICHAEL SEALES

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 Acting Prime Minister, do hereby appoint you, MICHAEL SEALES to be a member of the Senate temporarily, with effect from 17<sup>th</sup> May, 2024 and continuing during

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the absence from Trinidad and Tobago of Senator the Honourable Rohan Sinanan.

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 16<sup>th</sup> day of May,  
2024.”

“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. FRANCIS LEWIS

WHEREAS Senator Hazel Thompson-Ahye is incapable of performing her duties as a Senator by reason of illness:

NOW THEREFORE, I, CHRISTINE CARLA KANGALOO, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad

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and Tobago, do hereby appoint you, FRANCIS LEWIS to be a member of the Senate temporarily, with effect from 17<sup>th</sup> May, 2024 and continuing during the absence of Senator Hazel Thompson-Ahye by reason of illness.

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 17<sup>th</sup> day of May,  
2024.”

### **AFFIRMATION OF ALLEGIANCE**

*Senators Ndale Young and Francis Lewis took and subscribed the  
Affirmation of Allegiance as required by law.*

### **OATH OF ALLEGIANCE**

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

### **ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS) (AMDT.) BILL, 2024**

An Act to amend the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011), brought from the House of Representatives [*The Attorney General and the Minister of Legal Affairs*]; read the first time.

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

*Question put and agreed to.*

**1.40 p.m.**

**PAPERS LAID**

1. Motor Vehicles and Road Traffic (Windscreen and Window Tint) (Amendment) Regulations, 2024. [*The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell)*]
2. Motor Vehicles and Road Traffic (Amendment to the Ninth Schedule) Order, 2024. [*Sen. The Hon. R. Mitchell*]
3. Trinidad and Tobago Revenue Authority (Extension of Period) (No. 3) Order, 2024. [*Sen. The Hon. R. Mitchell*]
4. Annual Report of the Trinidad and Tobago Securities and Exchange Commission for the financial year ended September 30, 2023. [*Sen. The Hon. R. Mitchell*]
5. Annual Administrative Report of the Trinidad and Tobago Tourism Business Development Limited for the year 2020. [*Sen. The Hon. R. Mitchell*]
6. Annual Administrative Report of the Trinidad and Tobago Tourism Business Development Limited for the year 2021. [*Sen. The Hon. R. Mitchell*]
7. Ministerial Response of the Ministry of National Security to the Second Report of the Joint Select Committee on National Security on an examination into the factors that contribute to the prevalence of illegal firearms and gun violence in Trinidad and Tobago. [*Sen. The Hon. R. Mitchell*]
8. Ministerial Response of the Ministry of Labour to the Sixth Report of the Joint Select Committee on Human Rights, Equality and Diversity on a follow-up inquiry into the implementation of the

**UNREVISED**

9. recommendations of the 18th Report, 11th Parliament, on an inquiry into the treatment of migrants with specific focus on the rights to education, employment and protection from sexual exploitation. [*Sen. The Hon. R. Mitchell*]
10. Ministerial Response of the Ministry of Education to the Sixth Report of the Joint Select Committee on Human Rights, Equality and Diversity on a follow-up inquiry into the implementation of the recommendations of the 18th Report, 11th Parliament, on an inquiry into the treatment of migrants with specific focus on the rights to education, employment and protection from sexual exploitation. [*Sen. The Hon. R. Mitchell*]

## **PUBLIC ACCOUNTS COMMITTEE REPORTS**

### **(Presentation)**

**Sen. Jearlean John:** Thank you, Mr. President. Mr. President, I have the honour to present the following reports as listed on the Order Paper in my name:

#### **Examination of the Report of the Auditor General on the Public Accounts of Trinidad and Tobago**

Fourteenth Report of the Public Accounts Committee, Fourth Session (2023/2024), Twelfth Parliament, on an examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2022.

#### **Examination of the Reports of the Auditor General on the Police Complaints Authority**

Fifteenth Report of the Public Accounts Committee, Fourth Session (2023/2024), Twelfth Parliament, on an examination of the Reports of the

Auditor General on the Financial Statements of the Police Complaints Authority (PCA) for fiscal years 2015 to 2021.

**Examination of the Reports of the Auditor General on the Airports Authority of Trinidad and Tobago**

Sixteenth Report of the Public Accounts Committee, Fourth Session (2023/2024), Twelfth Parliament, on an examination of the Reports of the Auditor General on the Financial Statements of the Airports Authority of Trinidad and Tobago (AATT) for financial years ended December 31, 2013 to 2019, and follow-up on the implementation of the recommendations contained in the Eighteenth Report of the Public Accounts Committee from the Eleventh Parliament.

**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. Mr. President, there are three questions for oral answer and as is usual, the Government is prepared to answer all three.

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

**Sen. The Hon. R. Mitchell:** There is one question for written answer, Question No. 64, and it is ready and available for circulation.

**WRITTEN ANSWER TO QUESTION**

**Oil and Gas Reserve Audits of Upstream Energy Companies**

**(Details of)**

**64. Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries and the Minister in the Office of the Prime Minister:



With respect to the oil and gas reserves audits of the upstream energy companies operating in Trinidad and Tobago, can the Minister advise:

- (i) when was the last audit conducted;
- (ii) which entity conducted the audit identified at (i); and
- (ii) what were the results of the audit, including the proven, probable and possible reserves in each category of oil and gas?

*Vide end of sitting for written answer.*

## **ORAL ANSWERS TO QUESTIONS**

### **Persons Displaced in April 2024 Fire**

#### **(Measures Taken to Assist)**

**102. Sen. Anil Roberts** on behalf of Sen. Wade Mark asked the hon. Minister of Social Development and Family Services:

Can the Minister indicate what measures are being taken to assist persons who have been displaced as a result of an April 2024 fire which destroyed three (3) family homes in Freeport?

**The Minister of Social Development and Family Services (Sen. The Hon. Donna Cox):** Thank you, Mr. President. The Ministry of Social Development and Family Services received a report of a fire from the Couva/Tabaquite/Talparo Regional Corporation's Disaster Management Unit. This fire occurred on Sunday 14, April, and the Ministry of Social Development and Family Services staff paid a site visit the next day, Monday 15, April, 2024, and conducted assessments of three families as follows: Geeta Omardath-Rajkimar, a household which is comprised of two persons; Meena Omardath, a household comprised of two members; and Rory Rampersad, comprised of one person.

As a consequence, the Ministry provided the following assistance: each family was provided immediately with temporary food support at the value of \$550. Counselling support through our National Family Services Division was offered. Letters were issued to the head of the household of each family to obtain quotations for the receipt of household items, clothing and school supplies as required. Rental Assistance Grant was also offered to the family, but no family accepted, they declined this grant. Documents outlining the requirements for the Minor House Repair Assistance, Sanitary Plumbing Assistance and House Wiring Assistance Grants were also offered to the affected families. An update is that some clients have submitted their quotations for the General Assistance Grant already to the Ministry and it is currently being processed.

**Mr. President:** Sen. Roberts.

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

**Sen. Roberts:** Thank you, hon. Minister. And through you, Mr. President, is there a policy for dealing with fire victims throughout the country, and if so, what is that policy? And second—well, (b) of that question is, what is the time—it appears that the assessment was done immediately the next day. What is the normal lag time to get help to the victims of fire?

**Mr. President:** So, Senator, you are asking two questions. So the first question.

**Sen. Roberts:** All right.

**Mr. President:** Minister, first question.

**Sen. Roberts:** But I know you bright “nah”.

**Sen. The Hon. D. Cox:** Actually, I will answer the second one first. Actually, it is dependent on when—

**Mr. President:** No, no, no. Senator, he asked two questions, and the way supplementals work is you have a certain number. So you have to answer the first one he asked. If he wishes to repeat the second one, he can do that at the second supplemental. Minister.

**Sen. The Hon. D. Cox:** Can you give us the first question, please?

**Sen. Roberts:** Is there a policy for dealing with fire victims across the country from your Ministry?

**Sen. The Hon. D. Cox:** Yes, definitely, there is a policy. Of course, once there is a fire, we liaise with the Trinidad and Tobago Fire Service and also, the regional corporations. The regional corporations are really the first respondent, and they are the ones who liaise with us, and then we liaise with the fire victim, and then we offer all the services that are available to them.

**Sen. Roberts:** Thank you, Mr. President. And what is the normal time span taken to assess and deliver services, or help, financial aid, food and so on to these victims?

**Sen. The Hon. D. Cox:** Well, with regard to that, it is dependent on the information, when we receive the information from the family. Because the family—we would assess, we would offer the services, but sometimes the family would have problems getting the fire report, because they must get the fire report. So there are times there is a delay in the fire report from the family and also, bringing in the invoices for the required goods.

**Mr. President:** Sen. Roberts.

### **Dragon Gas Project**

#### **Impact of Non-renewal of Licence)**

**103. Sen. Anil Roberts** on behalf of Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries and Minister in the Office

of the Prime Minister:

In light of April 2024 reports that the US will not renew a licence that eases sanctions on Venezuela's oil and gas sector from April 18, 2024, can the Minister advise as to what impact this decision will have on the Dragon Gas Project?

**The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you, Mr. President. Mr. President, the April 2024 reports in respect of the sanctions imposed by the United States on Venezuela's oil and gas sector relate to General License 44. The amendment to the OFAC General License 44, which is now known as License 44A, does not affect the specific amended OFAC licence that was issued to the Government of Trinidad and Tobago on the 17 October, 2023. I repeat, it does not affect our position. That licence, the amended licence of October 17, 2023, authorized the Government of Trinidad and Tobago, the National Gas Company of Trinidad and Tobago Limited, NGC, Shell plc and their affiliates to conduct business with the Government of Venezuela and PDVSA with respect to Dragon gas field in Venezuela.

The specific amended OFAC licence, issued to Trinidad and Tobago on the 17 October, 2023, is valid until the 31 October, 2025, and permits Shell, NGC and contractors to continue the works being undertaken to explore, produce and export natural gas from the Venezuelan Dragon field to Trinidad and Tobago.

Additionally, I remind the population and the public, through you, Mr. President, that Trinidad and Tobago secured a 30-year exploration and production licence from the Government of Venezuela on the 21<sup>st</sup>

December, 2023; a 30-year E&P licence for the Dragon gas field. And the work to explore, produce, and export the natural gas from this field to Trinidad and Tobago is, in fact, continuing.

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

**Mr. President:** Sen. Roberts.

**Sen. Roberts:** Thank you, hon. Minister. Through you, Mr. President, from the information just garnered from the hon. Minister, that the OFAC amended licence given or awarded to Trinidad and Tobago on 17<sup>th</sup> October, that it goes until the 31 October, 2025, and that Trinidad and Tobago has been given a 30-year agreement with the Government of Venezuela to monetize and to explore the Dragon field, has the Government of Trinidad and Tobago been able to sign a contract, a joint venture agreement or partnership agreement with a multinational corporation moving ahead? Has that been achieved?

**Mr. President:** Minister.

**Hon. S. Young:** The answer is, yes. Trinidad and Tobago, through the National Gas Company, has signed a joint venture agreement with Shell for the exploitation of the gas in the Dragon gas field, and the exploitation of that gas, and export of that gas to Trinidad and Tobago. Such an agreement has been signed with Shell.

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

**Mr. President:** Sen. Roberts.

**Sen. Roberts:** Thank you, Mr. President. So in this agreement, does the geopolitics, as stated by the hon. Prime Minister, affect this agreement in any way, especially with the agreement with Shell, the multinational corporation who will be charged with the bulk of the infrastructural

development to monetize this Dragon field? Is that affected in any way—

**Mr. President:** Minister.

**Sen. Roberts:**—or can it be affected in any way?

**Hon. S. Young:** Mr. President, geopolitics affects everything. So geopolitics continues to affect Trinidad and Tobago and other areas of the world. It means tangible and intangible. This deal was consummated with a 30-year licence, which has never happened—an exploration and production licence to the Government of Trinidad and Tobago, NGC, and Shell from Venezuela. The OFAC licence—no OFAC licence has been granted for Venezuela in as long a term as two years, as Trinidad and Tobago has gotten. Chevron has a three-month to six-month licence that continues to roll over and over. So the answer is geopolitics affects it.

Does it affect Shell and the work we are doing? The answer is no. We are proceeding full speed ahead. Two weeks ago, I met with the second round under the CEO, the global CEO of Shell, right here in Trinidad and Tobago, Zoë, and we are proceeding full speed ahead. Hopefully, in the not-too-distant future, you will see a survey ship going to the Dragon gas field, with our people on it, to begin the work on the Dragon gas field.

Right now, the engineering work is taking place, the designs are taking place, and all of the work that is to be expected is taking place between Shell, NGC, Venezuela and Trinidad and Tobago.

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

**Mr. President:** Sen. Roberts.

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

**Sen. Roberts:** Thank you, Mr. President. Seeing that the hon. Minister said geopolitics affects—

**Hon. Senator:** Yeah. Jack Warner “cyah” go to the States.

**Sen. Roberts:**—everything, and could affect this deal, does the hon. Minister have confidence that come October 31, 2025, that this OFAC amended licence will be renewed? And if there is a risk that it cannot be renewed, how can the Government tell the population that we have to pay \$7 million per year for something that may not happen due to geopolitics?

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

**Mr. President:** Minister.

**Hon. S. Young:** Thank you very much. The sum of money that the Senator has referenced is a normal payment with the signing of any exploration and production licence. In fact, just this morning, in discussions with the Ministry of Finance and looking at it, we have a number of companies in Trinidad and Tobago that are paying us, on an annual basis, for scholarships, for sums way above US \$1 million, and they have not even begun to explore the fields and the blocks that we have granted licences to them for.

So to suggest that the sum of US \$1 million being paid as part of the exploration and production licence with Venezuela is something unusual, it absolutely is not. The revenue that we stand to benefit will come from and derive from this deal will be in the billions of US dollars.

**1.55 p.m.**

We will continue to progress. No one can predict what will happen with respect to geopolitics or anything in life. At this stage, I cannot predict who will be the chairman or the deputy chairman of the UNC come the end of next month. So that shows we will continue to do all of the work in the competent and confident manner that we have continued to do so, and we will continue to do what is best for the people of Trinidad and Tobago.

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

**Mr. President:** Sen. Roberts.

**Sen. Roberts:** Thank you, Mr. President. A brilliant waffle by the Minister who did not answer the question.

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

**Sen. Roberts:** And the question—

**Hon. Member:** “Allyuh jus calm down”.

**Sen. Roberts:**—that was asked and it was not answered was, does the Government feel confident that a US \$1 million without the surety or the certainty that any revenue will be forthcoming to this country, was a correct, responsible decision?

**Mr. President:** Minister.

**Hon. S. Young:** The answer is absolutely, yes. That sum was negotiated downwards.

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

**Hon. S. Young:** And I take the opportunity to remind the population that that US \$1 million spent is a revenue-generating expenditure as compared to the \$400-plus million spent on LifeSport that produced nothing but criminality for Trinidad and Tobago to deal with.

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

**Mr. President:** Next question on the Order Paper.

**Sen. Roberts:** I have nothing else. Small mind, small brain, small pin. Yes. Next question for the honourable—[*Laughter*]

**Mr. President:** Have a seat. Have a seat. Have a seat. Have a seat.

**Sen. Roberts:** I have nothing else.

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



**Mr. President:** No. Members.

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

**Mr. President:** Both sides. Both sides. Sen. Roberts, next question on the Order Paper.

**Sen. Roberts:** Thank you, Mr. President. I will just stick a small pin there. Question No. 104—

**Mr. President:** Senator, a have seat. Have a seat. Have a seat. No. When I call for the next question on the Order Paper, just—

**Sen. Roberts:** State the question.

**Mr. President:**—state the question.

**Sen. Roberts:** Thank you.

**Mr. President:** Leave all the extra stuff out.

**Sen. Roberts:** Guided. Thank you, Mr. President.

### **Water-Trucking Scams Nationwide**

#### **(Measures to Address)**

**104. Sen. Anil Roberts** on behalf of Sen. Wade Mark asked the hon. Minister of Public Utilities:

Given WASA's identification of multiple million-dollar water trucking scams nationwide, can the Minister advise whether the \$750 fine associated with the illegal extraction, distribution and sale of WASA's water will be increased to dissuade potential perpetrators of such crimes?

**Mr. President:** Minister of Public Utilities.

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

**The Minister of Public Utilities (Hon. Marvin Gonzales):** Thank you very much, Mr. President. Mr. President, the Water and Sewerage Authority

has taken action to strengthen enforcement and ensure compliance with the provisions of the Water and Sewerage Authority Act and has implemented a proactive and determined approach to eradicate water-trucking scams in Trinidad and Tobago.

With respect to the current small fines for illegal extraction, distribution and sale of WASA's water, there is no doubt that this fine is outdated and obsolete, and with effluxion of time, it no longer serves as a deterrent to these serious acts or wrongdoing.

The Water and Sewerage Authority is currently undertaking, Mr. President, a comprehensive review of the Act that governs this operation, including fines for various illegal practices that endanger or undermine the ability of the authority to provide services to the citizens of Trinidad and Tobago. It is expected that this legislative review can be completed and appropriate amendments to the Act presented to Parliament by the end of 2024.

**Mr. President:** Sen. Roberts.

**Sen. Roberts:** Thank you, hon. Minister. Through you, Mr. President, how many, if any, perpetrators of this heinous fraud have been caught or charged, even though the fine may be miniscule? How many people have been caught doing this illegal charging for trucking of water?

**Mr. President:** Senator, that question does not arise out of the original question. Sen. Roberts, Next question.

**Sen. Roberts:** Thank you, Mr. President. What communication strategy has been implemented by the Ministry and by WASA to alert citizens of this ongoing fraudulent practice?

**Mr. President:** Minister.

**Hon. M. Gonzales:** Mr. President, recently the Water and Sewerage Authority, the board of commissioners and the management, they have expanded the resources and the operations of the call centre to allow citizens access to WASA's operation to request water-trucking services. The call centre operation has been now a 24/7 operation, so therefore citizens requesting truck-borne services now have access to WASA—

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

**Hon. M. Gonzales:**—and to make the appropriate requests for free truck-borne supply of water.

**Mr. President:** Sen. Roberts.

**Sen. Roberts:** Thank you, hon. Minister. Hon. Minister, the lead-time, and I have personal experience with it, to get the truck-borne water to a household is approximately two weeks, six months ago. Has that time been reduced? Has WASA or the Ministry increased the number of available trucks and so on to serve the country and the population?

**Mr. President:** Minister.

**Hon. M. Gonzales:** Mr. President, I am not aware where the hon. Senator has gotten his information so therefore, I will not verify that information, but however, I can assure the citizens of Trinidad and Tobago that recently WASA has expanded its fleet of water-trucking operators. We have contracted several more water-truck operators to be deployed strategically in areas that are unserved and underserved. So in addition to the expansion of the call centre operation to a 24/7 operation, additional truckers, perhaps over 70 water truckers and tankers, are now available to provide to citizens requesting and desiring a supply of water in the various communities across Trinidad and Tobago.

**Mr. President:** Sen. Roberts, final question.

**Sen. Roberts:** Mr. President, from the Minister's answer, can one glean that due to the improvements being made in the truck-borne supply now, that previously the country was underserved by this service for the last eight years?

**Mr. President:** I will not allow that question, Sen. Roberts. That is—

**Sen. Roberts:** That is four?

**Mr. President:** That is it. Yes.

**Sen. Roberts:** Can I have one extra?

### **ADMINISTRATION OF JUSTICE**

#### **(INDICTABLE PROCEEDINGS) (AMDT.) BILL, 2024**

**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. I beg to move that a Bill entitled:

A Bill to amend the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011) be now read a second time.

Mr. President, I am very privileged and pleased to appear before you and this honourable House today to speak to the Administration of Justice (Indictable Proceedings) (Amdt.) Bill, 2024, which was passed with an amendment in the other place on Monday 13<sup>th</sup> of May, 2024.

Mr. President, we have long spoken of preliminary enquiries which have long been recognized as a bottleneck in our justice system. In March, 2023 prior to the proclamation of the Administration of Justice (Indictable

Proceedings) Act, 2011, also known as AJIPAA, nearly 38,000 indictable matters languished in our districts courts. In point of fact, Mr. President, even as we stand here today there are matters still at the stage of preliminary enquiry in our courts which are in existence for in excess of 13 years and have not yet reached the stage of indictment.

Mr. President, in appreciating the amendment which is before the House today to further the objective of AJIPAA, we have to appreciate that the relief which AJIPAA is intended to bring, and is bringing, represents cases which not only affect the individual accused, but also affect the victims, their families and the communities who are all waiting for closure and justice in outstanding matters. This Government, Mr. President, took the decisive step to finally abolish the antiquated pre-trial procedure of preliminary enquiries that plague our justice system. For the first time in our history, a novel, efficient and electronic approach to pre-trial proceedings has been established.

The abolition of preliminary enquiries, Mr. President, is one of the major reform initiatives undertaken by this Government that works in tandem with several other reforms and demonstrates our commitment to achieving swift and fair justice for all through a comprehensive overhaul of the criminal justice system. To name a few, Mr. President, we have seen:

- the establishment of specialized court divisions;
- the introduction of judge alone trials, the decriminalization of certain roads traffic offences;
- new plea bargaining legislation;
- the establishment of a public defender system; and

- significant resources consistently applied to the justice sector to approve its plant, its machinery and its processes.

The long awaited abolition of preliminary enquiries through AJIPAA complements these significant reforms.

What is also of enormous importance, Mr. President, in the 10 years since we have been moving through the enactment of AJIPAA and finally bringing it home, is the continued involvement of all parties in the process. The Government has actively engaged key stakeholders for the past 12 years in order to continue to gather feedback and to refine our approach to the abolition of preliminary enquiries and the implementation of a more efficient pre-trial mechanism.

In June last year, 2023, I stood before this honourable House to introduce the Administration of Justice (Indictable Proceedings) (Amdt.) Act, 2023 (Act No. 12, 2023) which provided, Mr. President, for among other things:

- the enforcement of electronic filing which reduces the archaic paper-based systems;
- the requirement for early filing of the indictment as this has been identified as source of delay in plea agreements as well;
- stricter timelines for compliance by all parties to proceedings;
- the elimination of the requirement of cross-examination and additional oral evidence;
- steering pre-trial indictable matters out of the districts courts formerly called Magistrates' Courts;
- placing pre-trial indictable matters before the masters of the High

Court in the criminal division, thereby allowing for earlier identification of matters to be tried summarily;

- ensuring case readiness through the introduction of timelines and scheduling orders and effectively allowing for the sufficiency of the evidence to be determined through an assessment of documentary evidence, as opposed to the laborious eliciting of oral evidence and the many years of cross-examination that has plagued this system in the pre-trial preliminary enquiry process.

Mr. President, in talking about the consultation which this Government has been engaging in and continues to engage in, our stakeholders have included, but are not limited to:

- the Judiciary of Trinidad and Tobago;
- the Trinidad and Tobago Police Service;
- the Office of the Director of Public Prosecutions;
- the Public Defenders Department of the Legal Aid and Authority;
- the Trinidad and Tobago Prison Service;
- the Law Association of Trinidad and Tobago among others.

Mr. President, in that process of consultation as recently December 2023, the Judiciary of Trinidad and Tobago in collaboration with the Office of the Attorney General and Ministry of Legal Affairs embarked on a sensitization programme for stakeholders in the criminal justice system on AJIPAA, and the systems and processes contained therein.

During those sessions, the Judiciary demonstrated the new electronic filing systems for initiating indictable matters before the High Court through the novel web portals using case lines and case-centre software for all

evidential uploads, evidential management and case presentations.

I am pleased also, Mr. President, to inform this House that the groundbreaking impact of the proclamation of AJIPAA has been coupled with the newly introduced criminal procedure rules of 2023, which has continued with AJIPAA to move forward the swift administration of justice.

Very significantly, Mr. President—and we spend a lot of time in this place and in the other place talking about the independence of the different arms of the State, the Judiciary, the Executive and the Legislature—very significantly, as we move to look at the Bill that we are here to debate today, we have had a very recent example of a concept of our separation of powers that is least spoken to, the interoperability of the separate arms to the State, the Legislature, the Cabinet and the Judiciary.

**2.10 p.m.**

What do I mean by that? We have brought AJIPAA—the Cabinet, the Executive—to this Parliament. The Parliament in its two Houses has given the opportunity to parliamentarians to debate and to refine AJIPAA, and to pass it in the law. Then the Judiciary, in the interoperability of which I speak, in progressing and advancing our society, takes the baton from there and begins to implement. So as recently as January of this year, Mr. President, in this case of *The State vs Sheldon Doodnath*, which was published by the Judiciary in a media release on the 1<sup>st</sup> of May, we learnt of a decision that which is being presided over by Madam Justice Lisa Ramsumair-Hinds.

That case was filed and the dates are significant, when we think back to the 13-year old delay in preliminary enquiries, which have been



eliminated by AJIPAA. The case was filed on January 11<sup>th</sup> 2024 with alleged offences including kidnapping and larceny of a motor vehicle. The sufficiency hearing, the process by which all of the evidence to take the case to the stage of an indictable commitment of the assizes, which is now in documented form, no cross-examination, was concluded by the judge on April 16<sup>th</sup> 2024, with the accused being committed to stand trial before the San Fernando Assizes.

Four months, Mr. President, in place of the perennial wait of six to eight years, sometimes amounting to 13 years to move a case from the summary trial before the magistrate, to the indictment before the assizes. So we have the remarkable situation in 2024 in which a case, four months after the accused was charged, the pre-trial proceedings commenced, the initial and sufficiency hearings were completed, the Master committed the accused to stand trial, the accused appeared before a High Court judge for trial, and the presiding judge now indicates that she anticipates that the case will be completed before the end of July, a mere six months after the filing of the indictment.

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

**Sen The Hon. R. Armour:** Let me repeat that, Mr. President. The judge has indicated that the case is expected to be completed a mere six months after the filing, after the charge of the accused before the first instance court. That, Mr. President, is what AJIPAA has brought to this country through the efforts of this Government. Coupled with AJIPAA has been introduced, as I have said earlier, the Criminal Procedure Rules 2023, and among the things that the Criminal Procedure Rules have brought into effect, is the case

progression officer. Cases are now being managed by the judges through the case progression officer.

So when we read the Order of the court, the judge who has moved the case already through four months and is expecting to manage the case to completion by July of this year, we see that one of the orders that the judge has pronounced on is to say that no deadlines, and no timetables fixed by her Order may be altered by the agreement of the prosecuting and defence council without her permission. So you are not allowed as lawyers managing the case to take the case away from the charge and trial conduct of the trial judge. If you want any extensions you have to come back to the judge and justify it.

That is how we are going to move the system forward, and that is how under the new AJIPAA process and the Criminal Procedure Rules, the court is now driving the process to ensure that persons get a fair trial in an expedited period of time. What the Criminal Procedure Rules, Mr. President, 2023, which are in tandem, which AJIPPA highlight, is that there is now a responsibility on attorneys to advance the case without using court hearings to do things, and parties can manage themselves allowing precious court resources not be wasted. Madam Justice Ramsumair-Hinds expressed the objective of resolving noncapital indictable matters within a year and capital indictments within two years. This is the progress that we are speaking to as we look at the Bill that is before us today.

May I indicate, Mr. President, before I turn to the clauses of the Bill, that we are here today to move an amendment, two short amendments, to one section of AJIPAA, section 21. Because, in the continuing stakeholder

consultation that all citizens and entities of this country are committed to, the Office of the Attorney General and Ministry of Legal Affairs received correspondence from attorneys representing the Board of Inland Revenue, attorneys representing the Director of Public Prosecutions, the Public Defenders' Department and the Police Complaints Authority. It is they, who as they see the process of AJIPAA working its way through the system have brought to our attention some of the teething problems that are being experienced by what is new legislation, and have asked us to come back to this House for the few amendments that we wish to introduce today.

So, if I can now turn to the substantive provisions of the Bill, which presently before the House, Mr. President. Clause 1 provides, as we would expect, for the short title the Administration of Justice (Indictable Proceedings) (Amdt.) Bill, 2024.

Clause 2 deals with interpretation, it clarifies that throughout the Bill the Act refers to the Administration of Justice (Indictable Proceedings) Act, and ensures constituency and understanding of terminology within the legislation, and it provides for clear titles and nomenclature throughout.

Clause 3 constitutes the substantive provision of this Bill. Mr. President the current clause 21 of the Bill of AJIPAA was circulated, as I have said, for wide stakeholder comment prior to proclamation. What we are introducing at clause 21(a)(i) is to provide that witness statements must be signed by original statements recorded by the police officer or by the witness. The first proposed amendment to the section involves the insertion of new subsection (9) which would incorporate the definition of "police officer" as outlined in the Proceeds of Crime Act, Mr. President, which is

borrowed. So we are borrowing from the Proceeds of Crime Act an enlarged definition of “police officer” to ensure that prosecution can commence with parties who play a role in the initiation of proceedings who are not exclusively “police officers”.

So subsection (9)—Clause 3(b) is to insert:

“...after subsection (8), the”—new—“subsection:

“(9) For the purposes of this section, ‘police officer’ means an officer of the Trinidad and Tobago Police Service and includes an officer of the Customs and Excise Division, an officer of the Board of Inland Revenue or any officer of an agency of the State, lawfully vested with investigative powers similar to those exercisable by a police officer appointed under the Police Service Act.”

That is first substantive and the main amendment that we seek to introduce by clause 3 in the Bill before this august House.

Additionally, Mr. President, we wish to amend, and this is indicated that clause 3:

“Section 21...

“...in subsection (2)—

“ ...in paragraph (a), by inserting after words ‘police officer’ or the word ‘given ‘.’”

So that this enables acceptance of statements provided by witnesses directly or recorded by authorized persons other than “police officers” within the strict definition of “police officers”.

Mr. President, as I said before, those amendments have been brought

to this House and I pay tribute to them by the very worthwhile contributing enhancement of the process from correspondence from the Board of Inland Revenue, the Public Defenders', the Director of Public Prosecutions, and the Police Complaints Authority. It is important, Mr. President, and I signal this to this House, it is important to appreciate that we continue to engage in our stakeholder consultation.

We have issued correspondence, my Office, on the 26<sup>th</sup> of March 2024, to key stakeholders requesting feedback on other issues facing the implementation of AJIPAA since its proclamation. Some stakeholders have responded, and I thank them for their respective submissions, we await feedback from others. It is very likely that we will be coming back before the other place, and this House for some further enhancements of the legalisation, as we refine it by way of amendment.

**2.20 p.m.**

And if I may just mention one or two other things as I close, Mr. President. That process of stakeholder engagement includes our international partners. So that my office is in collaboration with the United Nations Development Programme through the PACE Justice Project, which aligns with this Government's focus on addressing case backlogs, aiming to integrate software, hardware and capacity interventions, to mitigate current and to prevent future challenges in the criminal justice system.

This project is intended to deliver improvements to court and case management systems, modernization of procedures, deployment of information, and communication technology, training of police, prosecutors, judges and court staff, and enhance coordination across the justice sector.

Even as I speak, Mr. President, a first batch of equipment has already been delivered through the efforts and the collaboration of UNDP to the office of the Director of Public Prosecutions and the Trinidad and Tobago Police Service.

AJIPAA, Mr. President, represents a pivotal milestone in our ongoing quest to improve our administration of justice and to provide for a more effective and efficient judicial system. Just as technology advances at a rapid pace, Mr. President, so too must our approach in delivering justice. We cannot afford to be complacent in the face of mounting caseloads and lengthy delays. The AJIPAA is not just a piece of legislation, it is a strategy to modernize our justice system, to deliver swifter and more effective justice. All stakeholders are playing their part and I applaud them and I thank them, and with that, Mr. President, I beg to move.

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

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

*Question proposed.*

**Mr. President:** Sen. Lutchmedial.

**Sen. Jayanti Lutchmedial-Ramdial:** Thank you, Mr. President. We are here today to debate some short and what would appear to be very innocuous amendments to the Administration of Justice (Indictable Proceedings) Act, 2011, also known as AJIPAA. Mr. President, I am happy that the Attorney General has taken some time to go through, what I would say, the fruits of AJIPAA, which, of course, as the Act would reflect, Act No. 20 of 2011, came out of a policy of the People's Partnership administration. So it was a vision that began in 2011, and we are seeing the fruits of that vision here

today bearing out in the terms of the rollout of that piece of legislation and the elimination of preliminary inquiries, in particular, which, as the Attorney General has said, was seen as a bottleneck in our system.

We have now replaced the old system of preliminary inquiries with sufficiency hearings, we have greater use or we are attempting to have greater use of technology to see if we can expedite those hearings, and that we can have a swifter pace of justice for all parties involved, not just the accused but particularly victims and society as a whole, because we all have an interest in ensuring that matters move through the court system very speedily, and that society feels that justice is in fact served when you have criminal activity. As crime continues to increase I think the cry for justice and speedy justice is something that we will continue to as public officials, will continue to hear the public clamouring for swifter justice to be dispensed in relation to these offences.

Mr. President, as the Attorney General has gone through some of the background information to AJIPAA, I just want to make a couple of comments in response to—and to contribute and to add to some of what he has said before I get into the specific provisions of the Bill. We have looked at, and he has mentioned, the Attorney General has mentioned that this is an ongoing process, and in any case where you have a paradigm shift of this magnitude you would expect that there would be some teething problems that have to be worked out. And, for example, the public would have been privy to what I consider to be an unfortunate, again, an unfortunate display in the public domain of a disagreement with respect to the use of electronic bundles, committal bundles, and getting committals filed and so on. And

this highlights for me the necessity to ensure that we have consistency across the board, because for those who do not understand, perhaps, the different roles and functions of the different offices within the judicial system, it is exactly that. It is a system. There are many different entities that all have to be working together, and they all have to be on the same page, and they all have to understand what the other one is doing.

And so the case of one of our legal luminaries who was unfortunately taken way too soon from us, and that matter pending, and the committal bundle not—or there being some confusion about the transmission of a committal bundle, highlights the need for us to streamline processes. And so I would hope that that unfortunate scenario that played out would lead to some deeper analysis as to what changes need to be made, whether they be legislative or whether they be just simply procedural things that have to be put in place, whether it is a resource problem, or whether simply people just need to start speaking to each other a little more frequently and have someone take the lead in ensuring that we smooth out these processes so that we do not run into these issues, with such a glaring public display. Because at the end of the day what really happens when you have all of this is that it will eventually play out in the media, it will go away, but there is a damage that is caused to confidence in the overall system of justice in Trinidad and Tobago.

So as we have this major paradigm shift towards what AJIPAA has envisioned, we have to ensure that we iron out these creases, because there are some big creases and some small ones, but there are some big ones that cause a lot of discomfort amongst members of the public, and so we want to



get those things done. It requires equal application of resources, and we have had many joint select committees, we have had many debates in this House and we have had many public discussions about the DPP's office and their ability to implement some of the changes that the Attorney General spoke about, because he spoke about the digital movement, which of course we support, we are in favour of.

He has made mention of the Criminal Procedure Rules and what it requires, and how it requires parties to now move cases forward, and you are under the supervision of, like a case management officer, parties can no longer simply ignore directions and deadlines set by the court. But are these bodies properly equipped? It is one thing to do away with a preliminary inquiry and move straight to an indictment. Filing of an indictment is not a piece of paper that somebody sends to the DPP to sign and it goes to the court. It is a process. I hated doing indictments when I worked there. It is a real painstaking process.

And one of the reasons for this issue with the Dana Seetahal file and the committal bundle, is because you actually have to physically go through some of the written documents that are tendered into evidence at a committal proceedings. And it is a painstaking process, and that is why I think the issue of the electronic bundle and so on, reared its head but I leave that for the line Ministry to sort out and to work on. But I am saying that, if that department is not properly resourced we are going to hit another bottleneck there, because the DPP in appearing before parliamentary committees and so on, has highlighted that the staff that he has currently, are very inexperienced, and with that very inexperienced staff—we can sit here and

fix all of the procedures, and we can be very happy about the procedural aspects and what the law has now fixed in terms of procedure to eliminate PIs and all of that, but we may be creating a bottleneck down the road.

For example, the sufficiency hearing has to be conducted by a Master. Look at how many of the Masters who now sit in the Supreme Court to conduct those sufficiency hearings represent the upper and middle level of what was once the DPP's office? Many of them. The Judiciary has put out releases showing who has been elevated to the position of Master, and I congratulate all of them, and I am very happy for all of them, but it has left a void in that department. So without that department getting the resources, we may hit some further bottlenecks down the road. So I make that comment just by way of saying, look, we have to continuously assess every institution that plays a role in this particular system for AJIPAA to really achieve the objective that we want it to object.

Mr. President, I know that mention has also been made of the sufficiency hearings where we can look at documentary evidence, and that sounds good, and for the purpose of the public who might think to themselves, well, why was this not always the case? As much as looking at documentary evidence, including witness statements, can help you arrive at a conclusion, as to whether or not a prima facie case is made out, which is really the purpose of the preliminary inquiry, we cannot for a moment really overlook the fact that without a preliminary inquiry, without cross-examination, with a simple sufficiency hearing, you may also lose the opportunity to test the veracity of witnesses at the preliminary inquiry.

And although that is not usually something that is done, I have seen

cases where it is very important that you root out—some cases are very heavily document-based, fraud cases for example. So you can read all of the documents at a sufficiency hearing, the Judge, the Master, whoever it is, and you can come to the conclusion that, yes, a prima facie case is made out, and this should move to an indictment. That is fine. But there are some cases, and we still have many criminal cases in this country that hinge on testimony of one or two key witnesses, and I would not say it is a downside but it is something that we would lose if not carefully managed at a sufficiency hearing stage to test the veracity of witnesses.

You know, I will never forget, I did a case once where the witness statement was tendered into evidence, although it is a preliminary inquiry, we used the opportunity to tender the witness statement. And that witness made a statement about himself and the victim, and he said that we had a platonic relationship. And all the defence attorney had to get up and ask the man, do you know the meaning of the word “platonic”? Could you tell us? And he could not answer because the witness had no clue what platonic meant, because he did not write that witness statement. The police wrote it for him and gave it to him to sign, and my whole case fell down, because that was the only key witness that had any evidence against that accused. And at the point of a preliminary inquiry that case fell and was out of the system.

So, we have to ensure that in all of these procedures, we do not prioritize, you know, having an expeditious hearing for having a quality hearing. Because in a normal situation where a magistrate—sorry, a Master conducting a sufficiency hearing reads a statement like that, yeah, you might get to court in six months, but the case may flop at the stage of the High

Court. So it is a resource issue, it is looking at how best we manage cases, and so we go down the road. Now, that is just some preliminary and background information because we have been discussing AJIPAA as a whole and how it has been functioning.

With respect to the clauses of the Bill, very short, but they are very important, and I will get to the first one. In the amendment to section 21 which is in clause 3(a), we are adding the word “given”, and this is important, because, of course, if you do not have proper procedures, witness statements can be challenged. And one of the things we see now happening a lot in the criminal justice system, persons who are not necessarily under investigation or who are not suspects in a matter tend to be asked to give statements and they prefer rather than coming in to give an interview to the police, which is very painstaking and takes very long, and scheduling issues and all of that, they will ask the police to send them questions and they prepare statements and they give to the police.

So this clause really allows those given statements to now be used and to form part of the proceedings. And that is not really objectionable per se, it only ties in to the other section where we have to ensure police understand, I think, the manner in which these statements have to be treated, because they have to be examined very carefully for hearsay, they have to be examined very carefully for information that may need to be the subject of follow-up interviews and so on, because that is the usual process that the police will adopt, and we have to ensure that all persons conducting investigations know and understand that.

Just today before we came here we were in a JSC where we were

discussing the production of witness statements by financial institutions, and when you are dealing with fraud and white-collar crime for example, we depend very heavily on witness statements coming out from the banks and the financial institutions to, for example, exhibit certain information. Would persons who are giving statements be adequately familiar with the rules of evidence and so on? So it requires that we cannot simply accept and give statements, but that these statements must be, and the investigators have to be sure, and we cannot allow given statements to make its way into a trial without being subjected to the same level of scrutiny as statements that would be recorded by trained investigators.

**2.35 p.m.**

So it is not objectionable and again, this is a very procedural Bill and it deals with the procedure. The given statements should be able to be put into evidence, whether it is at a sufficiency hearing or even later on, a trial. We want to make sure that that is done. Otherwise, objection—if the word is not there, objection could be taken, I suppose, by the other side, that it was not a statement taken by the police but rather given by somebody else.

The other section, section 21, is amended, and this is clause 3(b), and replaces the previous definition—oh, sorry, inserts a definition, and it expands what “police officer” is to mean. And this definition is now lifted out of proceeds of crime, because we want to have consistency, recognizing, of course, that people outside of the TTPS can, in fact, conduct investigations. And again, that is very important when it comes to fraud, white-collar crime, tax evasion, custom offences and so on. We are going to have persons in those different agencies conducting investigations.

I want to make a very short point here because it comes up from time to time, especially when people from the other place visit and we talk about the Trinidad and Tobago Revenue Authority. And the Opposition is always heavily criticized that we do not support the TTRA and because of that, we had to, or it was necessary for the Government to preserve the enforcement divisions of those two entities, which will now become the TTRA.

This is a perfect illustration of why because in all procedures and processes and proceedings before the court, persons who belong to these bodies, now known as Customs and Board of Inland Revenue, which enjoys a certain insulation as public bodies under service commissions without any—without, we would hope, the possibility of interference and so on, will one day become vested with the exact same powers of police officers in the conduct of court proceedings. And they will fall under the—and had it not been for the Opposition standing in the gap and insisting that we will not support the movement of those positions into a body that does not enjoy that insulation, those investigative positions would have been coming under a board appointed by a Minister.

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

**Sen. J. Lutchmedial-Ramdial:** And that is exactly this Bill and this amendment here today, and the vesting of the same powers of police officers to conduct proceedings, to take statements. Could you imagine that had we agreed to and allowed the TTRA Bill to become law in the form that the Government originally envisioned and we had supported it, the consequence of that today—and that is what vision and foresight is about, you know, we could see consequences. The consequence of this amendment today would

be that persons who could have been hired by a director, who is appointed by a board, which is appointed by a Minister, would have the same powers of police to interrogate you, to receive a statement from you, to bring you in and record a statement from you, and then tender it into evidence. And those persons, had they fell under that body, would not enjoy the same protections as police officers who come under a Commissioner of Police which is—well, should be appointed by an independent Police Service Commission. And that is where consequences flow from one thing to the next.

So I want to make that point just because this came up here today. And many people see legislation in isolation, and they say, “Well, this is a simple thing, we have it in proceeds of crime, so we want it here too.” I know we have it in proceeds of crime, I know we are going to have it here too, and that is why I know, I do not want any investigative officer from Customs or BIR to be sitting in a TTRA, hired and controlled by a board appointed by a Minister. So I make that point today to bring some justification and to dispel some of the criticisms that is often levied against the Opposition for not supporting the inclusion of investigative officers of the Board of Inland Revenue and the Customs and Excise Division under the TTRA. It is for this exact reason that we see here today.

I have no problem with independent officers who have been vested with powers such as this, under POCA and other pieces of law, for a long time, continuing to do their work. It is very important work. We are seeing a proliferation of white-collar crime. We want to see more investigations coming out of the Board of Inland Revenue and Customs and Excise

Division, and from a procedural standpoint, we want them to be included in this.

So we will not object to the clause today, at all, because we understand the importance of the role and function that they play. And it is for that reason that we understand the importance of their independence and we have fought so strongly and advocated so strongly for it. So with those few words, Mr. President, I thank you.

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

**Mr. President:** Sen. Maharaj.

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

**Sen. Sunity Maharaj:** Thank you very much. My comments on this Bill would be very short because I recognize the relief of the Attorney General in moving this process forward. From the public's perspective, the entire administration of justice is a log—a totally log-jam sector. Every single day we are treated to the stories like the one the previous speaker mentioned, something that just makes no sense, a bundle of documents that were sent electronically when you actually need the physical, and for that reason, not only such a high-profile person as the victim in that case has suffered, but many, many more people are stuck in the system with no way out. The cost of that to the country is unconscionable and the cost, in terms of human suffering, is even worse.

So any indication of progress towards making the system a little more efficient is to be congratulated. In this case, the Attorney General has identified one particular case that will move through the system in the rapid pace of six months, but that is one. I want to know whether that is an



exception or that is going to be what can be expected. And to know whether that is the case, what should be happening is that we have introduced something, we should be tracking the data to see whether we are seeing a percentage movement, we are seeing a reduction in time, we are seeing something that tells us that this is real and not just an isolated case.

I understand that the judge is doing her best, but not every case will she be able to say this is why she is retaining the discretion. Is that a policy, that judges are going to be doing that? They are taking a position that they are not going to allow lawyers to go behind their back, go in the back room, make their deals, prolong the cases, charge their clients even more, and more, and more, but judges are going to do that where it is reasonable to do it? Can you say anything more about that?

I think we have a system that is so chronically dysfunctional because what we have are the silos in which the entire administration—we talk about the administration of justice, but that is a massive sector dealing with something as important as justice and life and death matters, and there are so many elements that are part of that. And what we need is an integrated solution, but it is difficult to come up with integrated solutions as the evidences shows that we have had so many studies and so many attempts and so many enquiries into the state of the administration of justice and yet have not been able to make the kind of progress that you should make. In this case, it has been 12 years and any reasonable mind in the public is bound to ask, why did something like this take 12 years.

In terms of the Bill itself, I heard the previous speaker talk about the definition of a “police officer” and she linked it to the Opposition’s position

on the TTRA. I wonder whether that is a clean categorization of police office. If the Police Service Act defines “police officer” as:

“...a person who is appointed to perform the duties of an office in the Police Service...”

—if the Act defines that, might it not be better to say a “police officer or any authorized person” and define what other authorized person” may be?

I am a little uncomfortable with one piece of legislation defining the police officer in that way as somebody in the office, in the police service, and extending in another piece of legislation the definition to include many more people. But I am not a lawyer, so I leave that to the lawyers to—I just put it on the table for their consideration.

In terms of the—there is an amendment to determine between “or” and “and”, which is 21(i)(c):

“...to replace...‘or’ with ‘and’ in order to ensure that...witness statement...”

They have the choice of:

“These conditions are; the statement is signed by the witness in the presence of a police officer and dated or is also sworn before specified officials or and is sworn before specified officials.”

I understand, from listening to the Attorney General, that he is awaiting some input from stakeholders, he has consulted on that, but frankly, I would go with “and”. I do not think we should just have, one, a police officer dating something alone with this witness. I think we need another set of people as a check and balance in this. So with that, I will rest. Thanks.

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

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

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

**The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell):** Thank you very much, Mr. President. I too do not intend to be long but let me just touch on some of the matters that Sen. Lutchmedial-Ramdial had mentioned. Of course, we expect Sen. Lutchmedial-Ramdial to speak about the resource argument. I mean, the Senator has made that argument time and time again, but the Senator went a little further to agree with the Attorney General to say that there should be a level of interoperability. I think you said that these branches should speak a little more and they should discuss ways to improve, and the methods and the means to ensure that there are improvements to the criminal justice system.

Mr. President, I do not need to say much more on that, especially with what is going on in the national community today. But I certainly agree wholeheartedly with Sen. Lutchmedial-Ramdial and with the AG that there should be some interbranch communication, some interbranch cooperation, with a view to improving the criminal justice system.

Sen. Lutchmedial-Ramdial also spoke about the matter of speed over quality. In other words, whether this legislation is sacrificing quality or speed. And, Mr. President, that was never the intention. It was never the intention because there are many safeguards in the criminal justice system, in the legislation, in many other pieces of legislation. There is procedural fairness in place to prevent any injustice from occurring. And the hon. Senator knows this.

With respect to Sen. Maharaj's query about whether or not we expect all of these—all of the other cases, the thousands of cases that have to go through the High Court, whether they too will be subject to that standard. I think Justice Ramsumair-Hinds was setting a standard with respect to the Judiciary and how these cases are to progress and the very strict timeline in which we expect, and communicating to the public that justice is to be dispensed with. And that was simply it and we accept that, we accept those improvements.

So the Bill, of course, makes two amendments to AJIPAA but before, Mr. President, I discuss the mischief that the amendments are meant to cure, I wish to read into the record, just for a moment, something I read in a book called the *Fundamentals of Caribbean Constitutional Law*, at page 270, chapter 6, paragraph 12, and it touches on the rule of law. And the rule of law is very important to the AJIPAA, to the criminal justice system and to the debate that we are undertaking.

**2.50 p.m.**

So it says:

“As distinct from the nature of legal rules, the rule of law in Caribbean constitutional law is understood to also make certain demands on *how* legal rules are administered by public officials, including judges. Officials must apply the rules in the sense that there should be congruence between the law on the books and the law in fact. They must apply the rules as they are and act with the four corners of the law, the ultra vires principle. Associated with both these concepts is the principle that public officials must not abuse

their discretion or act arbitrarily, and they must have due regard for procedural fairness in applying legal rules. Finally, one of the core principles identified with the rule of law in Caribbean constitutional law is institutional. Courts play a critical role in ensuring the rule of law by hearing and deciding in a timely manner all justiciable claims, and they must embody the values of independence and impartiality in carrying out that function.”

Mr. President, it goes on to describe the core principles of the rule of law as legal certainty, legality and the ultra vires doctrine, procedural fairness, and access to justice. And under the core principle of access to justice, as a tenet as the rule of law, is the concept that the law—everyone must be equally accountable before the law if rules are to be effectively and routinely obeyed. And in that very same book at paragraph 21, chapter 6 on page 277, it says under “equality before the law,” it says:

“From the ‘prime minister down to a junior clerk’, everyone is responsible for their actions before the law. The law must be applied without favour if access to justice is to be meaningful.”

But, Mr. President, I would add for emphasis, that the law must be applied without favour, effectively, routinely, without delay if justice is to be meaningful. And for many decades, the hon. Attorney General has indicated, justice in Trinidad and Tobago has been not meaningful.

In fact, we know that the criminal justice system has been plagued with delays resulting from a severe backlog of cases, with thousands of criminal cases being stuck in the Magistrates’ Court for over 10 years, in some instances, in a procedure called preliminary enquiries. This has caused

considerable delay and severely crippled the criminal justice system. And if you ask the average man, Mr. President, whether or not justice in Trinidad and Tobago is seen, the answer would not be surprising. Access to justice is denied, if access to justice is delayed. Sen. Sunity Maharaj indicated that, of course, the harmful effects on whether or not justice is delayed, and those harmful effects are felt by the accused person who wishes to clear his name, the victims, the witnesses, but most importantly, it tarnishes the image of the administration of justice in our own criminal justice system.

Delays in the criminal justice system over the past decades was and is not acceptable for this present Government. The near collapse as described by the Chief Justice, Mr. President, of our criminal justice system was and is not acceptable, and the erosion of the rule of law under our watch as a government, was and is not acceptable. And it is for that reason, that since 2015 this Government, led by the Prime Minister and Attorneys General, have worked tirelessly to move massively away from the preliminary enquiry procedure to clear the backlog and to improve criminal justice in our society.

So in December 2023, after years of consultations as the Attorney General indicated, years of consultation with many stakeholders including the Judiciary, this Government has moved to create that tectonic shift, and it has started in January of 2024, and we are all excited and anticipate a new, improved criminal justice system here in Trinidad and Tobago.

Mr. President, the UNC promised to do it. They could not do it. The PNM has done it in Trinidad and Tobago.

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

**Sen. The Hon. R. Mitchell:** And the PNM would be recorded in history for many things, but if there is one thing of improving justice for the people of Trinidad and Tobago and improving that criminal justice system. So, two amendments to this Bill, and we accept that as we go along, there may be some more tweaks to get rid of some unwanted lacuna that may have been by oversight, overlooked, some unwanted lacuna that would only be recognized and detected as we operationalized the new AJIPAA Bill. The ones before us today, the word “given”. So the subsection would now read, “A signed original statement was recorded by a police officer or given by the witness”, and it is amending section 21 of the AJIPAA Act which deals with the admissibility of prosecution witness statements and the conditions that must be met, and we accept that not all witness statements are recorded by police officers.

In fact, in the other amendment, we are dealing with the whole definition of “police officers”, but a witness statement may be recorded or be assisted. A witness may record his own statement and sign it, or he may be assisted and therefore, we do not wish the section as it is the presently constructed to render any of these witness statements inadmissible. So we are including the word “given” so that a witness who may be assisted by a family member or by somebody else not mentioned or not described in the expanded definition of police officer, that those witness statements can be made admissible especially now as the High Court is dispensing with thousands of cases in the backlog.

The other one, we propose to introduce a new subclause in section 21(9) which expands the term “police officer” to include not just police

officers, but anybody who is involved under statute in investigation processes and that is accepted. At present, there are a number of witness statements that have been recorded, reduced to writing by persons who are investigating tax matters in the Board of Inland Revenue, in the Police Complaints Authority, in Customs and Excise, and without the expansion of police officer in this definition, then those statements will become inadmissible at the sufficiency hearings and will be thrown out.

So those are the amendments, Mr. President, that we have before the Senate today. They are very urgent and are very necessary, and in conclusion, Mr. President, this is a watershed moment in Trinidad and Tobago. We have done away with preliminary enquiries and the Judiciary is moving speedily ahead at clearing the backlog, at improving the efficiency of the criminal justice system, and improving the concept of justice and the rule of law to accused persons so that they can get rid of their matters, know their fate. If there are any adverse consequences, as quickly as possible for victims who suffer emotional distress in wanting, and the families of victims who want to understand and know that these matters and justice has been meted out and, of course, for the concept of the rule of law in Trinidad and Tobago.

So again, I commend the Prime Minister, the Attorney General under Mr. Al-Rawi, and Attorney General Armour SC, for working diligently, wide consultations and keeping at it to ensure that this legislation is passed along with others—because this is not a silver bullet, this is not a panacea—for ensuring that the legislation is passed, that the criminal justice system is improved, and that justice is seen in Trinidad and Tobago. With those few



words, I thank you.

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

**Mr. President:** Sen. Vieira.

**Sen. Anthony Vieira SC:** Thank you, Mr. President. Just to be clear we are speaking about—

**Hon. Senator:** No 3 of—

**Sen. A. Vieira SC:**—No. 3 of 2024, an Act to amend the Administration of Justice (Indictable Proceedings) Act, 2011. The reason I wanted this clarification is there are two Bills before us today and in his opening the Attorney General touched on both. So there was a little bit of confusion, but we are talking about No. 3 of 2024. There really is not much to say about this Bill, which amends section 21 of the Administration of Justice (Indictable Proceedings) Act, so I will not be long.

In 2011, we sought to abolish preliminary enquiries and provide for sufficiency hearings before masters of the court. Under section 21 of the indictable proceedings Act which treats with the admissibility of prosecution statements, it is provided that the original statement should be signed by a police officer or a witness. Well, this amendment makes clear that witnesses give or provide their statements and they may do so, well either verbally or in writing to law enforcement officers, to attorneys, or to other relevant authorities. Secondly, and as we have heard, the designation “police officer” does not cover or include customs officers and tax investigators from the Board of Inland Revenue, even though these officials have a very important role in the prosecution of certain offences under the proceeds of crime regime. So the amendments at clause 3 are intended to cure that deficiency

or close that gap.

As we have heard the Bill is short, it is innocuous, but it is important, at least procedurally. And so paraphrasing Mark Twain's infamous statement, I would have given you a shorter contribution, but I did not have time, and with those few words, I thank you.

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

**Mr. President:** Attorney General.

**The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC):** Thank you very much, Mr. Speaker—Mr. President, I beg your pardon. Mr. President, I could stand to speak at length because it is an area that I am very passionate about, but I am going to opt instead to be brief and may I be permitted just to say a few words in response? One of the points that was made by Sen. Lutchmedial-Ramdial, that I am reluctant to, but I will respond to, is the suggestion, or the submission rather, that there is still a preference for the system that existed in preliminary enquires where you need to test the evidence. Well, the short point in answer to that, is that the evidence of a fair trial is going to be tested. Let us just think about what we are doing under AJIPAA.

Under AJIPAA, someone is charged and the documentation which provides the Master with the evidence on the basis of which the charge was brought is brought before the Master in documentary form, and there is going to be no cross-examination. You have to trust your judges to apply the law, to be dispassionate, to be fair. The Master is going to look at that documentary evidence and come to a determination of whether or not a prima facie has been made out.

**3.05 p.m.**

Prima facie, meaning whether there is sufficient, credible evidence that persuades the Master that on the offence charged this person should face a trial at the Assizes.

Under the old system, we spent six to 10 years cross-examining all of the witnesses on that before the magistrate could commit to the Assizes and what suffered in that process was exactly the point that Sen. Maharaj speaks to. The entire system got clogged. What suffered under that are was the accused, the victim, the families and the communities because the process was never ending.

Under AJIPAA the documentary evidence is assessed by the Master. The Master says no sufficient prima facie case and that is the end of it. The case is thrown out. Or, as we saw in the case of the Sheldon Doodnath matter that I spoke to, within a matter of four months, instead of six to eight years, the Master says there is a sufficient prima facie case made out. And what is the next step? The next step, Mr. President, is a trial and at that trial that takes place within a shortened run-up to the wicket, that accused will get to the full benefit of a fair trial. His lawyer would be able to cross-examine before the judge, all of the witnesses who seek to put him behind bars, and the case would either stand or fall on the veracity of the material evidence that is brought before the judge. So there is no compromise of the fair trial right in the process that AJIPAA now brings to the fore. What is brought to the fore is that the accused is going to know in a shorter period of time whether he is going to spend this time behind bars or whether she or he is going to walk a free woman or a free man. What is wrong with that?

A number of other points were made, Mr. President. Sen. Lutchmedial-Ramdial takes credit for the fact that the 2011 Act was the Opposition's vision. Well, the 2011 Act was the Opposition's vision. What came out of the 2011 Act? Section 34.

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

**Sen. Mitchell:** Yes it is true, it is true.

**Sen. The Hon. R Armour SC:** What came out of the 2011 AJIPA Act that the People's Partnership brought before the Parliament is that in the dead of night, one night when everybody was on holiday, they came back to Parliament with section 34 to get their friends out of jail.

**Sen. Mitchell:** Sneaky, sneaky, sneaky.

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

**Sen. The Hon. R Armour SC:** For that vision—

**Sen. Lutchmedial-Ramdial:** Thank you for the vision.

**Sen. Lyder:** All of you all voted for it. "All yuh was asleep then?"

**Sen. Lutchmedial-Ramdial:** All of you all vote for it.

**Mr. President:** Continue AG .

**Sen. The Hon. R Armour SC:** Thank you very much, Mr. President.

**Sen. Lyder:** Wake up.

**Mr. President:** Sen. Lyder enough.

**Sen. The Hon. R Armour SC:** Thank you very much, Mr. President. So I could spend much time. Sen. Lutchmedial-Ramdial also makes the point that there are staff constraints at the Office of the DPP and other places. Well the fact of the matter is that my office is hard at work actively seeking to fill vacancies at the Office of the DPP. Last year we offered to bring—I

wrote to the Commonwealth Secretariat, to Baroness Scotland. I got her agreement to engage with me and I engaged with the DPP to bring Commonwealth lawyers to Trinidad to staff the DPP. The DPP said no thank you. We are to now in the process of filling vacancies on short-term contracts; the Judicial and Legal Service Commission is in the process of doing that. As we speak, vacancies are being filled. And as we speak—and I said this in another place—as we speak there is a building that is being sourced so that the DPP will have a building to move into and to give him the spatial requirements that he needs. At his request, we are currently making provisions for IT facilities for the DPP.

With every innovation we cannot stop and say well we have problems so let us not yet initiate the innovation because the problems are too much for us to bear. We have to move on. AJIPAA is in place and we are putting the systems in place. Therefore, I do not accept the criticisms that there are not sufficient resources or not sufficient will on the part of this Government to work with all stakeholders to enable the judicial system, the administration of justice, to move forward.

Mr. President, Sen. Maharaj asked rhetorically, she hopes that this case, the Doodnath case, is not the exception. Well let us look at life positively. This is one of the first cases that has come to court since AJIPAA, which was passed in 2023—December 2023. The case was committed, was assigned, the man was charged in January 2024. Let us take that as a signal of an optimistic passage into the future that we can do better.

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

**Sen. The Hon. R Armour SC:** Why must we decry the first case that

comes to trial and is demonstrably being managed in a better system that has been produced by AJIPAA as well an exception which we are not going to continue with. We must be positive. If we are going to move this nation forward, we must be positive.

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

**Sen. Dillon-Remy:** AG, AG, AG, can I ask a question?

**Sen. The Hon. R Armour SC:** Sorry I beg your pardon my back was to you, Senator.

**Sen. Dillon-Remy:** I probably do not understand whether the—now that AJIPAA is passed does it include those how many thousands of cases that were there before AJIPA was passed and those cases that are waiting that long, will that affect those cases? Because I think that is a one of the big questions.

**Sen. The Hon. R Armour SC:** To answer your question very briefly Senator, in principle, yes. What is going to happen and what is happening under AJIPAA is that the old cases that existed before will be brought before the Master and the Master would do an assessment as to which can move forward and which have to remain in the old system. It is an ongoing process and I know that from the information I have, and there is a unit within the Office of the Attorney General called the Criminal Justice Unit and we work every day with the Judiciary and every day with the police and the DPP's office. It is a moving target of achievement that we are committed to in collaboration with other arms of the State to make the system work. So the answer to your question, in principle yes, but it will take some time because each case is going to have to be looked at on its

merits. Thank you.

Mr Speaker—Mr. President, I beg your pardon, I was going to move next to touch very briefly on the question that had been made by Sen. Lutchmedial-Ramdial. Would persons giving witness statements be familiar with the procedure?—given statements should not be able to be put into evidence. Well training and sensitization on AJIPAA has been in place and is being conducted by the Judiciary in collaboration with the Criminal Justice Unit of the Office of the Attorney General since 2023, prior even to the proclamation of AJIPAA, and all of the stakeholders are engaged, all. The police service, the prison service, the Office of the Director Public Prosecution, public defenders, were part of the Legal Aid Authority and it is an ongoing process.

Mr. President, I could continue in detail but I do not think that—I think I will overstay my welcome in speaking too much. So with those few words I beg to move.

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

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

**3.15 p.m.**

*Senate in committee.*

**Mr. Chairman:** Okay. Hon. Senators, as we are well aware, this particular Bill has three clauses, I have seen no circulated amendments. As such, we are ready to begin. Clerk.

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

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

*Senate resumed.*

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

### **MISCELLANEOUS PROVISIONS**

#### **(ADMINISTRATION OF JUSTICE) BILL, 2023**

*Order for second reading read.*

**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 amend the Supreme Court of Judicature Act, Chap. 4:01 and the Criminal Procedure Act, Chap. 12:02 in relation to the place and time for sittings of a court and to provide for related matters, be now read a second time.

Mr. President, I am pleased to report to the House for the consideration of this honourable Senate, the Miscellaneous Provisions (Administration of Justice) Bill, 2023 which seeks to do a very straightforward and eminently commendable couple of amendments: to amend the Supreme Court of Judicature Act, Chap. 4:01 and the Criminal Procedure Act, Chap. 12:02 in relation to the place and time for sittings of a court and to provide for related matters. The Bill before us was passed with an amendment in the other place on Friday, 12 April, 2024.

As this Senate is aware, this Government has partnered with various criminal justice stakeholders to ensure the more efficient running of the criminal justice system, as indeed we have just been discussing in relation to the other Bill that has just been passed. This has led to the introduction of an amendment to various pieces of legislation to ensure that the appropriate framework is available to ensure the smooth operations of criminal matters



both at the District and Supreme Court levels.

Significantly, if we recall, Mr. President, the onset of the COVID-19 pandemic in March 2020, and if I may indulge this House with my own personal philosophy, wherever there is a cloud, there is a silver lining.

**Sen. Mitchell:** Yes.

**Sen. The Hon. R. Armour SC:** And one of the silver linings that we have inherited out of the pandemic was the fact that it challenged us to operate differently, and one of the ways in which we operated differently was in fact pioneered very actively by the Judiciary who broached that, who accepted the challenge with vigour and saw the transformation of court hearings relative to their location and format. Court hearings moved to online platforms seeing virtual attendance of participants including judicial officers, witnesses and accused persons.

So that today, in 2024, having under this Government, successfully withstood the challenges of the pandemic and our healthier people, we now find ourselves with digitalized solutions which have remained with us that came out of the pandemic, and consistent with the Government's mandate to continue the drive to full digitalization, we now have the proclamation of Administration of Justice (Indictable Proceedings) Act which has introduced significant changes of which we have already spoken. Therefore, against that background, we have to look at the existing legislation that we are here to amend today, Mr. President and recognize that it does not adequately cater to those changing circumstances.

This Bill is one that is rooted in pragmatism to ensure that court resources are optimized. To enhance the flexibility for court proceedings by

incorporating both virtual and hybrid appearances and designating more generalized regions rather than specific locations for filing complaints and hearing of matters.

Importantly, Mr. President, where the specific location of an offence is unclear or where the utilization of discretion fosters judicial fairness, the Bill also grants to the Director of Public Prosecutions the authority to file indictments at any designated registry of the Supreme Court for the Criminal Court Division in north Trinidad, south Trinidad and in Tobago.

Permit me, Mr. President, to take you through the short clauses of the Bill. The Bill contains four clauses. The first Bill provides for the short title—the first clause. The second clause provides for the commencement of the Act to come into operation on a date fixed by the President by proclamation.

Clause 3 provides for amendments to the Supreme Court of Judicature Act. Proposed amendment to the Supreme Court of Judicature Act addresses the critical issue with the existing legislation which requires currently that all trials are to be held within the boundaries of San Fernando, Port of Spain and Scarborough. It goes without saying that in this current technological climate and with the heavy urbanization of these areas, this significantly confines and limits the available spaces that the Judiciary is permitted to operate within for any court function or court expansion.

Put simply, the existing legislation excludes court spaces outside of the respective city boundaries. This presents spatial challenges, it also presents security challenges as we are all aware of the risks posed to the general public in transportation of high-risk prisoners if so required into

heavily urbanized areas for their court appearance and court attendance.

But more importantly, the change that we are asking this august House to embrace today, Mr. President, by broadening the areas in which the court has the flexibility to operate physically and enhancing the courts' capacity to deal with virtual and hybrid discharge of justice, we are taking the courts to the people.

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

**Sen. The Hon. R. Armour SC:** Mr. President, having regard to the urgent need for the Judiciary to utilize all the resources at its disposal as well as supporting the convenience and safety of judges, judicial officers, staff, accused persons, juries and witnesses, the proposed amendments are not only crucial but necessary for the Judiciary of Trinidad and Tobago. The proposed amendments are in line with the procedural changes within the Judiciary that are in place and ongoing and are crucial for supporting and maintaining the administration of justice throughout this proud Republic.

Permit me to expand on what this Bill proposes to establish, Mr. President. Clause 3 of the Bill amends section 74(1) of the Supreme Court of Judicature Act replacing the phrase "Port of Spain, San Fernando" and "Scarborough" with the broader:

"North Trinidad", "South Trinidad" and "Tobago".

Clause 3(b) of the Bill amends section 74 of the Supreme Court of Judicature Act to clarify that "North Trinidad", "South Trinidad" and "Tobago" stated in the existing section 74(1) would have the exact meaning as section 3 of the Criminal Procedure Act which already identifies these zones according to the cities, boroughs and municipalities in Trinidad and in

the island of Tobago.

Mr. President, clause 4, amendment of the Criminal Procedure Act. Clause 4 seeks to amend section 2 of the Criminal Procedure Act by inserting indispensable solutions. For example, in line with the current initiatives and practices of the Judiciary, phrases such as the establishment of the virtual access customer centres, VACCS, phrases such as “hybrid mode” and “virtual mode” have been introduced in clause 4(a) to reference the conduct of proceedings before the court in part virtual and electronic means. Mr. President, this inclusion was considered necessary as the existing outdated legislation failed to address the current measures undergoing in the Judiciary to digitize the courts.

Clause 4(a) similarly introduces other phrases such as “in-person” to distinguish:

“...the conduct of a hearing...in a court building in the physical presence of the Judge, Master, District Court Judge or Registrar who is adjudicating;”

Permit me to mention, Mr. President, that clause 4(a) additionally provides for the clearer definitions of “North Trinidad”, “South Trinidad” and “Tobago”. So we now know that “North Trinidad” has been defined to:

“...consists of the City of Port-of-Spain, the Boroughs of Arima, Chaguanas and Diego Martin and the Municipalities of San Juan/Laventille, Tunapuna/Piarco and Sangre Grande;

‘South Trinidad’”—will—“consists of the City of San Fernando, the Boroughs of Point Fortin and Siparia, and the Municipalities of Couva/Tabaquite/Talparo, Penal/Debe, Princes Town and Mayaro/Rio

Claro;”

Lastly, “Tobago” would encompass:

“...the”—entire—“island of Tobago;”

Mr. President, clause 4(b) amends the Criminal Procedure Act by repealing section 3 and substituting a new section 3 which provides for changes to the law on the following:

- Place, time and modes of trial in North Trinidad, South Trinidad and Tobago.
- Attendance of judges and judicial officers for the hearing of cases virtually, in-person or in hybrid mode.
- The designation of a place for a registry of the Criminal Division of the High Court and practice directions for proceedings, documents or any media to be filed at the Registry.

Mr. President, this significant amendment will empower the Chief Justice to appoint places and times for trial by order, providing for an exception that a judge or judicial officer may hold sittings at times and places other than those appointed by order of the Judiciary where deemed necessary and in the interest of justice.

Clause 4(c) repeals and replaces section 4 of the Criminal Procedure Act. That clause provides that:

“Where in any written law reference is made to Port of Spain, San Fernando or Scarborough as the places where criminal trials are heard, they are deemed”—now—“to be a reference to North Trinidad, South Trinidad and Tobago respectively.”

It is clear, Mr. President, that these amendments to these pieces of outdated legislation in that regard are a response on the part of this Government and indeed driven by the engaged stakeholder consultation which we continue to have with the Judiciary to the evolving societal needs and to the unforeseen strictures of the previously existing legislation. It is necessary to remove those limitations with respect to the use of court spaces.

As mentioned previously, Mr. President, those proposed amendments are pivotal in supporting the Judiciary in its mandate of furthering the principle of efficient administration of justice and the ease of access to justice for the people of Trinidad and Tobago. Significantly, Mr. President, the proposed amendments will address organizational and divisional needs of the Judiciary, support case-flow management and case management strategies.

Importantly, the Bill contemplates the change of case-flow management as seen through our Administration of Justice (Indictable Proceedings) (Amdt.) Act, 2023.

**3.30 p.m.**

There is already an increased flow of matters moving from the district courts to the High Courts, and it is of critical importance that with the increase in filings, suitable accommodations across north Trinidad, south Trinidad, and Tobago are permitted, as well as allowing for the utilization of virtual hearings.

I would like to assure the citizenry of Trinidad and Tobago and this honourable House that this Government is committed to continuing to bring effective and necessary legislation to this Parliament, which upholds the

principles of the administration of justice and separation of powers with an interoperability of collaboration between the arms of Government, and to uphold access to justice, equality, fairness and the integrity of all the citizens of this country. Mr. President, I beg to move.

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

*Question proposed.*

**Mr. President:** Sen. Lutchmedial-Ramdial.

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

**Sen. Jayanti Lutchmedial-Ramdial:** Thank you, Mr. President. We are again debating another Bill, which seeks to make some procedural changes and introduce some definitions that would incorporate and legislate for the things that we have been doing for some time now within the court system. A lot of it became necessary as a result of the pandemic, and so we have to make some changes to the Supreme Court of Judicature Act and, of course, the Criminal Procedure Act, recognizing the importance of procedure in the entire system and ensuring that everything is done procedurally correct. Because as one of the Members opposite, the Minister of Tourism, Culture and the Arts, Acting Leader of Government, would have read, procedural provisions, and making sure that you have the right procedural provision are just as important to the rule of law and dispensation of justice, and so we must ensure that we get it right.

So there has been a sort of reorganization within the court system, and a move away from the old concept of the Assizes, and where the Assizes sit and so on. And the Attorney General used an interesting phrase about taking the courts to the people, and there are some mixed views about that, and

there are still some mixed views about the conduct of virtual trials, and I think the Law Association of Trinidad and Tobago has made some comments on it. And so I am not opposed to virtual trials, I think that they serve a very useful purpose and the Bill does, in fact, preserve the discretion of a judge, as well as the Chief Justice to make certain decisions when it comes to the conduct of in-person and virtual trials.

There are some trials that lend themselves to a virtual process by necessity. There are some that are simply more efficient if conducted virtually and again, I can say, for example, with the more financial-type crimes, fraud matters, white-collared crimes, definitely and certainly where the demeanour of a witness and so on, eyewitnesses and all of that, do not come into play, we can certainly utilize the virtual space to conduct more efficient trials. So the law will now provide for that, but preserves that discretion, and we must always have that discretion for a judge to be able to do what they feel is in the best interest of a case because no two cases are alike and circumstances may lend themselves to one way or the other.

Another reason why the virtual mode and virtual conduct of trials, or the moving of a trial from one location to the next might also better serve the interest of justice is, of course, when you still have jury trials being conducted, or whether it is because of the familiarity of people in the area with the particular incident, you may wish to move a trial from one place to the next, and those are some of the things that this Bill would certainly allow for.

**3.35 p.m.**

The one thing that stood out—and I used the term just now, interest of



justice. And I know that this Bill has been around for some time, it was laid last year and I think it was debated earlier this year, so I hope I have the correct version and that this was not changed before. But I noticed in the amendments to the Criminal Procedure Act, we are looking at the discretion of the judge, the DPP or even the accused to make an application to transfer matters for trial from one of the designated places to the next.

And the terminology, and you know, we have spoken before in the last Bill about consistency in terminology. And throughout this Bill, when you look at it—and I have highlighted some of the different places. when you look at clause 4(13)(c), we look at the “interest of justice”. When, for example you have an offence that occurred virtually and the Director has the discretion in order to file the indictment in either one of the designated registries, he must consider the interest of justice as one of the factors, and we are going down the road. But then when we reach to clause 16, I see the phrase being used:

“(a) the ends of justice so require.”

And I do not know if there is a reason for that, so I am just enquiring whether we have not been consistent with the use of the term “interest of justice” in other Bills which would have come here, and would have gone to committee and so on. And there has been much discussion about that term “interest of justice” and, us using that term “interest of justice” consistently because it encompasses many of the factors that the judicial officer would have to consider.

So, I do not know if there is a reason why we have not used it there, but I would suggest in that particular clause 16, the new 16(a), under clause

4, that we change that to “the interest of justice so require”. I also find that in particular with this section, and what the section says, and I will read it. It says:

“(16) Notwithstanding subsections (7) to (13) and without prejudice to subsection (4), the Court, on its own discretion or on an application of the...”—DPP—“...or an accused may transfer a matter for trial from one place designated under subsection (2) to another such designated place, whenever the Court determines that—”

And it says:

- “(a) the ends of justice”—which I think should be the interest of justice—“so require;
- (b) having regard to all”—of—“the circumstances it is desirable to do so in the interests of securing...”—a—“...more expeditious hearing and determination of cases...”—and then it says—“...or...”

Now, when you say “or” it means that an expeditious trial and it comes back my argument, expedition should never—to me—be a priority over the interest of justice or the ends of justice or whatever you want to call it. So I would suggest perhaps a reorganization of this particular section to say, having regard—(a) should be—having regard to all the circumstances as it is desirable to do so for expedition.

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

(b), perhaps a particular place is more appropriate, having regard to and it goes on to talk about the district court. And then the word “and the ends of

justice or the interest of justice so required”.

Because at the end of the day that should really be the catch all phrase, that the interest of justice must trump all other considerations when you consider moving a trial. You see before it was—and in the way of thinking and when we talked about trials being conducted before a jury of one’s peers and all of that. The thinking was that the locality of the crime should have some connection to where the trial is conducted.

And we are moving away from that way of thinking for the various reasons, again, as I said, too much familiarity in a small society with people with the accused, with the witnesses—because of witnesses being fearful, they may wish to be one removed from the community, and giving evidence in a district that is further away, when we have victims of human trafficking who may be in witness protection, there are a multitude of reasons why we may want to move away from that. But at the end of the day, interest of justice must always trump the rest of it. So, I do not disagree with the policy behind what is proposed here, but I just think that a little clean up there to make sure that interest of justice is an “and” and not an “or”, and that expedition or the interest of justice or the ends of justice is not something that should be considered. That is just a minor clean-up on that one there.

It would be remiss of me if I did not put forward a couple of things that have been discussed when it comes to this division of the Judiciary now, between the north, and the south, and Tobago. We are now using what is really the regional corporations to divide and before, it was what we called the Magistrates’ Courts or district courts that we determined wherever a matter occurred and the preliminary enquiry went to that particular court, or

the charge was first read at that court, would determine where the indictment had to be filed. So, everything from Couva to Mayaro to Point Fortin ended up being filed in the San Fernando assizes, everything from Chaguanas to Port of Spain, and as far east as Sangre Grande ended up in the Port of Spain Assizes and Tobago was Tobago.

We are now using the corporations and we have divided them along similar lines between north Trinidad, south Trinidad, and Tobago. And it will facilitate, for example, having trials being conducted at the Princes Town court when matters would have traditionally gone to the San Fernando Assizes, and that is very useful because we have no San Fernando Assizes. The building has been closed for a very lengthy period of time. We have been hearing for the longest while about the construction of a new district court, in that area. I remember in the first budget debate that I participated in, in this particular place, we were told that by the end of 2021 it would have a new district court at the corner of Irving and Sutton Street in San Fernando. Well, that building or that structure which I think is only consist of a few pieces of iron and what looks like half of a foundation, is now covered in vines.

And I think it is important because the legal profession continues to be very concerned about the availability of space, and the availability of resources, particularly in some of these areas when it comes to the conduct of trials. We have been utilizing—in order for physical trials to take place, I understand on the criminal side, they have been using the facilities at O'Meara. When you have—and this is just the can reality of the profession—San Fernando practitioners, albeit the option for virtual is there,

but when you have to utilize facilities at O'Meara, it is quite challenging. There is just a physical challenge sometimes with how we operate.

There was a time when I first started practicing, when the Court of Appeal sat in San Fernando, once for the month, or perhaps every other month, that they would sit and hear appeals coming out of San Fernando civil abuse at that building. We no longer have that happening because the building is closed, and we do not know what is going on there. So, right now in San Fernando, I think there are three functioning court rooms in what is known as the Madinah Building, and all matters are being dealt with there or they are being moved to Princes Town or O'Meara. And I mean that really is a challenge and it is not—and I understand resources and these things take time, and we have getting to get it done, but we ought to really look at ensuring that we do not just say, “Well, we can do everything virtually”, and therefore neglect the physical. And we still need the physical, and we need it to be there.

When we talk about taking crime to the people, the virtual space is seen as more convenient particularly to a lot of lawyers who do not want to have to physically be present in a court room in order to deal with—especially when you have little procedural things, and hearings and all of that. But there has been some concern by the Law Association about access to persons outside of the police, the witnesses, and the judicial officers, and the DPP's office and so on, to criminal trials. And they have made the point that criminal trials are supposed to be public hearings. And I have heard a couple of complaints coming from the media particularly, about their ability to access and give appropriate coverage to trials, whether it is civil or

criminal.

But there is a particular interest and we cannot simply dismiss the public interest in criminal trials. Again, I remember wondering why there were some people at the San Fernando assizes, sitting there day after day, listening to a trial, how they were connected to a matter. Only to be told at some point in time by the police in those trials that these are just simply members of the public who were interested and wished to observe a trial. And if you move to a virtual space, and we do not have those things taking place, for example, the victim's family. If a victim has to give evidence and is doing so virtually, can the family be there to support in the same room as the victim who might be giving from a virtual access centre? Are they allowed to log on and observe what is happening? Those little things.

And these were raised by the Law Association in some submissions that they made when we were looking at the criminal justice system before a JSC. They also raised the issue of just the wider public being able to observe and I have included into that the media. Because the media have complained that the links to various matters are not made available to them. Although they have the ability to request it, they have to know what is happening on a daily basis, make the request, the requests are sometimes not dealt with expeditiously, and they are not afforded the opportunity to be able to log in—so to speak—and observe what is happening.

Another thing some people find a bit disconcerting is just, you know, the operation of a virtual trial when you have technical issues, people tend to think it is challenging. Again, especially when you are giving evidence and witnesses and so on. I conducted an entire civil trial virtually, and it was a

heavy matter in terms of the amount of documents and so on that the witnesses had to refer to. And it really was challenging. It was not beyond the capacity of persons to get it done, but I could understand why people from time to time may have issues with those things.

So I want to say that that discretion, to be able to determine whether or not a trial should be conducted virtually or in person, it does belong with the judge who is seized of the particular matter and it does really, you know, it should be. But we should not have a situation where we allow our physical facilities to be unavailable to the point that judges are forced to do things virtually or have a delay. And I think that that has happened for some time. And I specifically will make reference to San Fernando because that has been happening quite a bit and the Assembly of Southern Lawyers complained—and it was carried in the media—that they were not consulted about the closure of the San Fernando court building. And then the Judiciary responded by way of press release to say, “Well, we consulted with the Law Association.” Only to have the Law Association respond and say, “Well, there was a meeting where the issue was discussed, but we would not say that that was consultation.”

And these little issues, again, lead, you know, to the public perception that sufficient consideration is not given to all of the stakeholders who have an interest in these matters. Because access to a court room is not just about a trial you know, it is being able to physically go to the registry and make an enquiry. It is about being able to physically go to Office Copies. Because you have been waiting six months for a response to an email where you tried to get the copy of a document that you need and you cannot get it, but you

cannot physically access a building to go and meet a human person and speak to them. And those little things, as much as they may seem petty, and they may seem to be, you know, by the way, and little issues to iron out and maybe personal things, they affect the long term administration of justice.

I will give you an example. Certification of fees for attorneys who do legal aid matters has been languishing for such a long time through the district courts, and they have been be unable to get adequate feedback from the courts because you cannot physically go in to the court and speak to a physical person. And you send emails and you get a generic response that in certain areas right now we have no attorneys willing to take on legal aid matters, and that is a serious thing. Legal aid, and the Legal Aid and Advisory Authority is a major stakeholder in the criminal justice system. And so, if we to do not pay attention to all of these things and we simply say that, “Look, everything could be done virtually, we are going to have issues such as this arising.”

So, I raised those matters, of course, the most specific thing that I would say about this Bill is that I would like to see the consistency of “interest of justice” being used, that term. Because, again, that term and what is encompassed by it would be something that we want to see consistently across all Bills dealing with the administration of justice on the criminal side. And taking into account how we operate, and the decisions to be made whenever a discretion is to be exercised whether it is by the DPP, the judge, the Chief Justice or whoever it may be. And I would say that on that particular subsection 16, that I would want perhaps to change that “or” to an “and”, and a restructuring of that section because interest of justice



ought to be the catch-all, and should be incorporated into all decisions being made when a trial is being moved.

Whilst it may seem unlikely, we do not want a situation where an accused person says, “My trial was moved and the judge exercised her discretion under part (b) to say it was for an expeditious trial.” But overall, the interest of the justice was not served. And for whatever reason it was not served, whether it is the availability of the witness or whatever it is.

**3.50 p.m.**

The law as it is being proposed and it is being envisioned will have many benefits. I cannot disagree with that. We can have witnesses who are out of—you know how much trouble, “rell, rell trouble”, when you have witnesses out of the jurisdiction and you are trying to move a criminal trial forward. Police officers who go on one-year and two years’ leave, sometimes they are out of the jurisdiction and a criminal matter cannot proceed in the High Court because of that.

This Bill, I hope, will cure that and I hope that it is utilized properly to cure some of those issues that we have faced for a long time in the criminal justice system and to afford an opportunity to witnesses who may wish to travel, who may be studying abroad, victims and so on. But we do not want to do it to the exclusion of the wider public or to the exclusion of any other person who might have an interest in being able to observe, to follow, to participate, for example, in a particular trial.

Pause for a moment and consider for example, at the end of the prosecution’s case where a decision is made in the interest of justice to protect witnesses or to facilitate a witness for the prosecution who is out of

the country, a victim or somebody else who might have migrated, that the decision is made to have a virtual trial. And at the end of the prosecution's case, you have a no-case submission. It may be overruled and a defendant is called upon to put his case that he wants to now utilize a witness, who for some reason or the other, the format of the trial that is chosen may not be in the best interest of him or it may not be possible or something to that effect. So we have to manage trials with all of the stakeholders from the beginning to the end in a way that will serve the interest of justice and again, the need for expedition. It is a major factor but it would not bode well for justice if it is placed above the interest of justice. So interest of justice for all parties involved should really be of primary consideration. And I think that apart from that, there are no other sections here. They are all very administrative in nature.

We are now changing again in the Supreme Court of Judicature Act the references so that we have consistency. Consistency is good, consistency is important and we would have the north Trinidad and south Trinidad and Tobago being imported now into the Supreme Court of Judicature Act so that there is consistency between that and the Criminal Procedure Act and that is certainly not objectionable.

I know that they have also introduced a definition called a hybrid trial. I know on the civil side we have conducted some hybrid trials in the past. Again, this requires that courtrooms be sufficiently outfitted to do a hybrid trial. Because you can have a physical trial taking place and then there is maybe one expert witness or something that you want to use who is out of the jurisdiction and you would want to have the hybrid in that case of having

this person to be able to use the virtual mode. So we have to make sure that we have those facilities all available on the criminal side. I think they are now—well the entire Hall of Justice is supposed to be used for criminal trials, save and except the Court of Appeal on the third floor. But I do not know where they have reached but I hope that we will continue to roll out that implementation of technology in all the criminal courtrooms so that we can—because I think hybrid trials will become the future of criminal trials in this country in all cases.

So again, the Government, hopefully, will ensure that that process of resources and so on being made available to the Judiciary continues as they upgrade the facilities at all the courts, both in Port of Spain and in San Fernando because we are suffering in San Fernando. I was happy to see today in the media that the Government might be considering some alternative representation that was here, but it left—

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

**Sen. J. Lutchmedial-Ramdial:**—for San Fernando, but hopefully my good colleague, wherever he is in the building, he is listening because I understand he might be taking on a very important role in San Fernando—

**Hon. Senator:** Only making all the big plans. Probably [*Inaudible*]

**Sen. J. Lutchmedial-Ramdial:**—so that he [*Inaudible*].

**Sen. Nakhid:** “Allyuh in a mess.”

**Sen. J. Lutchmedial-Ramdial:** And if that is the case, I hope that sufficient—

**Hon. Senator:** By-election.

**Sen. J. Lutchmedial-Ramdial:** —attention is paid to that particular court.

**3.55 p.m.**

It is very sad to see that that building that we had our three criminal courts in, in San Fernando, and had the capacity to really serve the people of South Trinidad in the most convenient way. And I could say that, it is nice to talk about court in Fyzabad and court in Princes Town and all of that. But the fact of the matter is, if you serve the profession and the people who are affected in the criminal justice system of South Trinidad well, it requires that sufficient attention be paid to ensuring that those resources as well as the district court in San Fernando comes to fruition, and that it is a project that is completed so I look forward to that. So thank you very much Mr. Vice-President.

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

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

**Sen. Dr. Maria Dillon-Remy:** Thank you, Mr. Vice-President, for allowing me to make a brief contribution to this Miscellaneous Provisions (Administration of Justice) Bill, 2023.

As I was reading the Bill, the first question that came to my mind is why are we talking about putting legislation now for virtual courts? I thought those courts were functioning a long time ago. And I am hearing from the Attorney General now, they were functioning yes, before COVID and it was accelerated during COVID but this is now an opportunity to put it in the legislation and for that I am quite happy.

The Bill is four clauses short/long, but I will only comment on clause 4, and clause 4(a) of the Bill inserts the definition in line with the current

initiatives and practices of the Judiciary which is the—currently dealing with virtual courts, et cetera.

Clause 4(b) provides for changes to the law on places, times and modes of trial from:

“...North Trinidad, South Trinidad and Tobago.

...attendance of Judges and judicial officers for the hearing of cases...

...virtually, in person or in hybrid mode.

—and the designation of places for—“...Registry of the Criminal Division of the High Court...”—and practice direction, so—  
“...proceedings, documents, or any...media...to be filed at a Registry...”

Clause 4(c) provides:

“Where...reference is made Port of Spain, San Fernando or Scarborough as the places where criminal trials are heard...”—and heard—“...in any written law...”—“they are deemed”—now—“to be a reference to North Trinidad, South Trinidad or Tobago respectively.”

So it is all procedural. With respect to the introduction of virtual and hybrid definitions into the legislations, as I said, courts have been sitting virtually and hybrid. My understanding is at least eight years and guided by practice guidelines issued by the Judiciary, but they are now being placed on the legislation.

Mr. Vice-President, I applaud the continued digitalization of our country through initiatives such as these, which generate significant benefits for the administration of justice as well as the citizenry. And Sen.

Lutchmedial-Ramdial pointed out in how many areas, and also the Attorney General, where the benefits from this initiative are now benefiting the citizenry and will continue.

I would just like to just mention a couple of points though, about the virtual proceedings. And I read this article published in *Northwestern University Law Review*, Vol. 115, No. 6 in 2021, written by Alicia Bannon and Douglas Keith. It is titled:

“Remote Court: Principles of Virtual Proceedings During the COVID-19 Pandemic and Beyond.”

And again, I am very happy that we have taken learnings from COVID and we are running on steroids with it in terms of administration of justice in this case. And I quote from the article:

“...remote proceedings can bring substantial benefits in some circumstances. Foremost, they have allowed courts to continue operating during the COVID-19 pandemic, reducing risks to court staff and court users alike, while providing essential services.

But in more normal times as well, courts can use remote tools to strengthen the justice system.”

As we are doing right now, and the quote continues:

“Remote court can make it easier for litigants to access the courthouse, enable legal providers to reach difficult-to-serve communities, allow attorneys to spend more time serving clients and less time in transit to the courthouse, and provide services to self-represented litigants, among other benefits.

The COVID-19 pandemic has forced unprecedented agility and creativity, including the embrace of remote court in many contexts. Courts should not go backwards. But just as courts should resist the temptation to return to a broken status quo, they should also avoid embracing change without fully reckoning with the costs.”

And it is here that some of the points made by Sen. Lutchmedial-Ramdial, I would also seek to mention.

In consideration of the aforementioned plea of Bannon and Keith to consider the costs attached to this change, I wish to briefly highlight three concerns. One, the infrastructure and the virtual access centres have been mentioned and the adequacy of them but infrastructure is also dealing with the access—the adequacy of the internet, et cetera. And a presentation at the 1st International Conference on Law and Human Rights, entitled: “The Effectiveness of Virtual Trials for Criminal Proceeding as an Effort to Mitigate the Spread of Corona Virus During the COVID-19 Pandemic” by Fadilla Jamila, Melantik Rompegading and Wahyu Hidayat. Published in 2021, the *Atlantis Press*, “Advances in Social Science, Education and Humanities Research” Vol. 549. The research paper explained that:

“...appropriate and suitable facilities and infrastructure that support the technology will be needed to connect the parties and to make sure that all of them could communicate optimally by being able to see and hear each other. Several facilities and infrastructure...are essential in this process include laptop or LED TV, camera, microphone, and speaker.”

And here we are talking about infrastructure.

The Judiciary provides virtual access centres for members of the public to access courtrooms and I think the Attorney General mentioned that the court is being taken to the people, because from what I understand, these access centres are in several areas of the country, including three that are in Tobago.

Mr. President, in light of this information, I must ask because there are some issues with the virtual access centres as the Law Association had submitted something concerning the adequacy of them. In other words, they were concerned about the size, and also about the comfort of people sitting in them. I do not know whether this is of—how important it is but I would just like to find out if there is anything going to be done to address the requirement for additional infrastructure.

Another point is the access to justice and again, this is some of the points that would have been made by Sen. Lutchmedial-Ramdial already. Inherent in one's access to justice is an individual's right to a fair hearing and persons should not be denied that. The research of Bannon and Keith revealed several shortcomings of remote trials which may be a hindrance to the fulfillment of that right and that includes, issues related to the digital divide, the access and comfort which require remote technologies are issues arising out of the continued digitalization of our country.

And while I commend the Judiciary for implementing the virtual access centres, which will now access the technology, however, litigants whether self-represented or otherwise—

“...who do not have the required technology...”



—should be presented with clear guidelines and guidance as to—about the virtual hybrid process.

They should also have ease of information and resources which should otherwise be available inside the physical courthouse—Sen. Lutchmedial-Ramdial made that point where persons—they are supposed to have a virtual hearing, and they are having difficulty getting that link and they are phoning the Judiciary and not getting responses. They are emailing and not getting an adequate response and people are concerned.

In the other place where you have the courts, they will be able to go in and get the information but they have to wait now. So, we are talking here about the digital divide and they making sure that persons have the access that is necessary.

The article from Bannon and Keith also talked about—and Sen. Lutchmedial-Ramdial mentioned that:

“Poor audio quality or video quality and poorly positioned cameras have often made it difficult for participants to follow proceedings.”

Article continues thus:

“Courts should develop policies”—and processes to ensure that—“to protect litigants when they cannot be heard, or cannot hear, at a critical juncture in their case, ensuring that they are not penalized for technological difficulties. Courts also need technical support on call for court staff and for members of the public some of whom may be using the court’s chosen remote platform for the first time.”

So, Attorney General it is just a matter—so I am saying as we roll it out and as we develop the—these are areas that we have to make sure that in the

quality of the systems that are being put in place could be maintained. And it is not just that we have a venue that is closer to the person, but the quality of what is given there is not right. And I would imagine that Sen. Bacchus would probably be one making sure that that is happening.

Another point in terms of the digital divide is the evidence testing. Reliability of evidence is established by subjecting it to rigorous testing. And one of the papers suggested by Rompegading and Hidayat explained that:

“The main problem...found is that the poor internet connection causes the examination to be less effective.”

And additionally:

“...it is difficult for the Judge to assess the witness’s psychological expression and gesture considering”—whether—“that he may be under pressure in giving testimony, or that he may be directed by another person in providing information.”—Because of his presence virtually.

There is also the transparency that Sen. Lutchmedial-Ramdial spoke about in terms of not having the public being able to access these criminal proceedings. Courts, like the CCJ provide live streams and the YouTube for trial. However, many of the other courts have not provided any form of public access and the transparency via online platforms also come with a privacy cost. And the article by Bannon and Keith went on further to explain:

“While in-person proceedings are open to the public broadcasting court hearings over the internet introduces ‘a loss of practical obscurity.’

It could be painful to know that anyone could view potentially and potentially disseminate images from such proceedings. Further, if public access to proceedings is too unrestrained, courts also risk undermining laws that allow for certain criminal cases to be sealed and records to be expunged—after all, it is difficult to prohibit recording a court proceeding from the comfort of one’s home”

In other words, something that may be considered private may be able to be recorded at a private location—and last point (d):

“Courtroom Management.”

This article of Bannon and Keith found that:

“Remote court...”—poses—“challenges for judges’...to manage their courtrooms and ensure fair proceedings. Remote technology offers new opportunities for distraction and inappropriate conduct during court proceedings, and it can be difficult for judges to identify such conduct and intervene.”

#### **4.10 p.m.**

The Judiciary issued the “Practice Guide for Electronic Hearings” on 21<sup>st</sup> of April, 2020, and it is helpful in directing some of the operations in the virtual court. However, I am advocating to make sure that the—well, I mean, the procedures, the guidelines are continually updated to make sure efficiency, effectiveness, and the protection of right of a fair hearing and furtherance of the interest of justice. I think the Attorney General would

have mentioned education of the public about all these new systems and clearly, more education has to happen as he rolls out the systems.

With the roll-out or implementation of any new system, comes the need for requirement of education and access to information about how to effectively navigate the system, and I am suggesting, as this excellent plan is rolled out, that there be more public education on the matters as to how this system can be accessed. Mr. Vice-President, with those few words, I thank you.

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

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

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

**The Minister of Digital Transformation (Sen. The Hon. Hassel Bacchus):** Thank you, Mr. Vice-President, for recognizing me. I just want to make a quick contribution and it is really prompted by some of what my colleagues, Sen. Dr. Dillon-Remy has said and some of what Sen. Lutchmedial has said, relative to the technology and the things that surround it. I am fairly sure Sen. Teemal will also have some pieces to add to that, knowing his engineering background.

But there are some things that I want to set on the table to make sure that we are not making an assumption that some people make, that is that the technology is a panacea and a silver bullet to solve all the things that we have. The technology is here to help us. The technology is here to make things simpler. It is here to make things more convenient. It is here to put us in a position where things that would have been, in some cases, impossible, now can become a reality because of the use of the technology.

But the technology still has to be taken into the context of the things that support it, and I think the article you quoted from, Sen. Dr. Dillon-Remy, spoke to a number of those things.

What we also have to remember is that what affects technology in the new sense, also affects technology in the old sense. What do I mean by that? There was a time in this country when power outages in local areas were fairly frequent. If you had a court in that area, more than likely it affected it to such a point where the court could no longer [*Inaudible*]. If you put supporting infrastructure to support the court, backup power, UPS, the things that will make the court run, air conditioning that would run, and that kind of power, then the court can continue, but it is the same infrastructure that will support the technology that will allow for this virtual environment to also continue.

So the things that were hindrances in the physical world, without the addition of the technology, still will be things that could affect the world with the technology, but if you fix them in that space, you fix them in the technology space as well. So the requirements for, what I like to call, the resilience of service—and when I say “the resilience of service”, the court is one place but the service that is being provided is what is happening within it. So the resilience of the service is for the proceedings to be able to continue, for the court to continue to sit, even in the advent of things happening around it that would normally stop it. That now becomes part of the prerequisites for the establishment, for example, of the remote areas that you were talking about, the remote courts.

So you would find that if courts are being put into areas, or these

virtual things are being put into areas that are remote, and that is what we intend to do, then the supporting infrastructure to allow for it to continue, for the service to be resilient, now has to be part and parcel of the design if the intent is for it to continue to work. So that is something you will have to consider.

Another thing that was there that we talked about is the suitability of the technology itself within the court. The cameras, the recordings, the microphones, the storage devices, the things that will allow for the persistence of the data that is collected, the safety of the documents that are uploaded, all of those things are already being considered, and have to be considered in the technology application.

It is good that we do have the empirical evidence of courts being able to sit, because we know that now, they are happening already, we are taking this a bit further. Some of the hybrid sittings that would become commonplace will require that we add specific technology in there to ensure the security and the ease of use, et cetera. But as with any new transition and as with any digitalization process, the four things that we have to consider remain the same, the people, the process, the technology, and in this case, the regulations that go along with it. We must address all of those in unison for this to be successful.

So while I hear the emphasis is significantly on the technology, the other things are there. Sen. Dr. Dillon-Remy, you did mention in the article about the things that would make it successful, training, familiarization, the educational aspects of it, the confidence-building aspect of it to ensure that people believe that when they do these things, it will work, all of those

things are part and parcel of the people piece. The process piece is to ensure that the new regulations, the rules that surround how you operate within those environments are set, that has to be done. And the guidelines that are already set by the Judiciary are there, and they will have to be expanded and continuously reviewed as we do that, because continuous improvement is a key component of that.

The technology will see about itself. We are not the first, second, third or twentieth people to be embarking on this type of thing. The industry-grade technology, they are well known, and the installation and the operations of them will have to be there. The additional piece is that the support staff that now support court proceedings, now also includes digital people. So when things do not work, if you need something—because there are always people there to help you—you will need to have those types of help services available to you as well in the court systems. Those are the things that we have to consider.

And then, of course, the main thing at the end of that is just the acceptance of it, and I think if we put all of the things that I have spoken to together and we expose them to the people who are going to be participants in it across all—the litigants, the complainants, everyone, once they understand and start to build the confidence in it, I think the usability and the fear of it will go away.

So it is really us managing the softer skills; implementing the technology properly; understanding the risks and mitigating against them from the beginning, as we are doing now; making adjustments to the guidelines; and then continuing to educate and familiarize, and I think this

will work quite well as it relates to that. Mr. Vice-President, I thank you for the brief intervention.

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

**Mr. Vice-President:** Sen. Deoroop Teemal.

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

**Sen. Deoroop Teemal:** Mr. Vice-President, I thank you for the opportunity to contribute to the matter before us. First of all, Mr. Vice-President, I would just say that I identify with my senatorial colleagues who have spoken before me on this Bill. Sen. Lutchmedial and then Sen. Dr. Dillon-Remy did raise concerns or expressed views—Sen. Dr. Dillon-Remy, in particular—about the technology part of this that would come about as a result of this Bill. I appreciate the contribution from the hon. Minister of Digital Transformation for putting the concerns in a certain perspective. So that has pre-empted a fair amount of what I was going to say, so I will not go there. I will just stick to some of the basic aspects of the Bill, some minor observations on my part, and seek clarification on them from the hon. Attorney General or other persons who will be contributing to the debate from the Government Bench.

Mr. Vice-President, section 2(1) of the parent Act, of the Criminal Procedure Act states that:

“In this Act, ‘Registrar’, ‘Deputy Registrar’ and ‘Assistant Registrars’ mean the Registrar, Deputy Registrar and Assistant Registrars appointed as such under the Supreme Court of Judicature Act.”

And what we are seeing in clause—what is before us in clause 4(a), subsection (1), the amendment before us removes “Registrar” at the



beginning of the section and thus, the amended section reads:

“Deputy Registrar’ and ‘Assistant Registrars’ mean the Registrar, Deputy Registrar and Assistant Registrars appointed as such under the Supreme Court of Judicature Act;”

Mr. Vice-President, it may seem a bit basic but I am a little puzzled by that amendment, because we have “Registrar” at the beginning of the parent Act, we have removed “Registrar” from it. That is how I interpret the amendment and I am wondering what is the purpose for this amendment, what is the particular purpose of it, and what are the outcomes the amendment is supposed to achieve.

Then in the same clause, clause 4, “virtual mode”, there is an interpretation for “virtual mode”, and in the ending of the subsection of the interpretation for “virtual mode”, the words:

“...facilitated by the use of technology under the management of the Judiciary of Trinidad and Tobago;”

I just have some concerns about using the term “management of the Judiciary of Trinidad and Tobago”, and actually putting the word “management” into legislation, and I am wondering if we should not have replaced “management” with “authorization”. Because in terms of management of the technology by the Judiciary versus authorization of the technology by the Judiciary, I think, from a legal perspective, there may be some implications if the technology is not actually brought into effect under the authorization of the Judiciary rather than the management of the Judiciary.

I am still on clause 4, Mr. Vice-President, subclause (b), subsection

13, and it says that:

“In circumstances where an offence occurred virtually...”  
—and in the Bill that is before us, I looked for an interpretation of the term “virtually”, and there is no definitive interpretation of “virtually”. Now, if there is an interpretation under any other Act, under any other law, I think we should reference that to bring clarity. But just the word “virtually” popping out at us under this piece of legislation, I think we need to nail it down a bit in the context of all that has been discussed here, and there should be some cross-referencing to existing law, or if not, we should address it in this particular piece of legislation.

Still under clause 4, subsection (14). this subsection gives the:

“...Judge or judicial officer...”—the means—“...to order...the trial...”—to—“...take place in North Trinidad, if”—that officer is—  
“satisfied that—”

And there are three conditions:

“(a) a fair trial cannot be had at San Fernando...”  
—and I think a correction has to be made there, just a minor correction. “San Fernando” should be replaced by “South Trinidad” to be consistent with what we are looking at. The second thing:

“(b) it is more convenient to the parties to hold the trial in North  
Trinidad; or

(c) the interest of justice requires the matter to be held elsewhere.”

And it stops there.

Now, I am just wondering why there is no reciprocity in the provisions for south Trinidad, and Tobago, because this tends to say, to me,

that a fair trial is only possible in north Trinidad, you know. Why is there no reciprocity, in that if the judge or the judicial officer thinks that it is not possible in the interest of justice, and the other same three conditions outlined there, that a fair trial is not possible in north Trinidad, then why can it not be transferred to south Trinidad?

**Sen. Vieira SC:** Vice versa.

**Sen. D. Teemal:** Yeah, vice versa or Tobago, accordingly.

**4.25 p.m.**

So, I think we need to look at that in terms of the reciprocity and have, you know, vice versa, as Sen. Vieira is telling me, in terms of transferring. I raise it in the context—my first thought was maybe there are special provisions in north Trinidad in the courts that are not available in the others, but I really would not like to think in that direction. I would want to think, that based on all that is happening, and all the upgrades, and everything that we are looking at, and the competence of our judges in all the different regions, that you know, shifting of trials in the interest of justice should also include south Trinidad and Tobago.

Now subclause (16), if we go a little further down, it does address transfers under similar conditions that are outlined in subclause (14). And it adds applications for transfer by the Director of Public Prosecutions or an accused, but I am not sure if the provisions in subclause (16) adequately address the question of reciprocity as I have mentioned. So, I would like the Attorney General to probably address it in his wrap-up and what his thoughts are on that particular aspect of it.

Mr. Vice-President, clause 3(7) of the parent Criminal Procedure Act, outlines a procedure for the transfer of cases, and with respect to time or the number of days required for the warrants for transfer by the DPP, and then the serving of the warrant by the registrar. Some days are mentioned there, so there is a time period that is actually legislated for in the in the parent Act. And what I have observed in the Bill before us, there is no similar provision with regard to time. So I am wondering if it is a deliberate omission, and if it is deliberate, then what are the reasons for it, for leaving out the timeframe for transfer because we are the repealing the entire clause 3 of the parent Act and if we do not address this, it means that it would no longer be in law. So I am suggesting that the reasons for—if I can get some of the reasons for it, why it is being left out.

Mr. Vice-President, still with clause 4(b)(18) which states that:

“...Subject to any special or general directions by the Chief Justice from time to time, a Judge or a judicial officer may hear matters virtually, in person or in...”—a—“...hybrid mode...”

Now again, I raise the question of the term virtually because as I mentioned before the interpretation of the term “under law”, it is not there in this Bill on whether we need to cross reference it to existing law but in this Bill before us we do have a definition for virtual mode. Virtual mode is there defined earlier in the Bill, and whether instead of using the term “virtually” here, that we should actually use the term, “in virtual mode”, rather than “virtually”.

So it ties in with what has been defined in the early part of the Bill, and Mr. Vice-President, with those few words, I must say that in terms of

Sen. Lutchmedial-Ramdial's—the term “in the interest of justice” being used consistently across our various Bills, I would tend to agree with that. I think in the interest of justice it would ensure consistency and it would cover all the concerns that there would possibly be from accused persons as well as persons within the judicial system. Mr. Vice-President, I thank you.

**4.30 p.m.**

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

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

**The Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Renuka Sagramsingh-Sooklal):** Mr. Vice-President, I thank you most sincerely for the opportunity to contribute to this debate, The Miscellaneous Provisions (Administration of Justice) Bill, 2023. Of course, a Bill that seeks to amend the Supreme Court of Judicature Act and the Criminal Procedure Act in relation to the place for sittings of court and related matters.

Mr. Vice-President, as I begin my contribution to this debate, of course, because of how short this Bill is I would not want to run afoul of the Standing Orders and find my way running into tedious repetition. So, of course, I will specifically focus on clause 4(b) of this Bill and particular new subsections that that clause 4 intends to introduce and, of course, the policy behind the introduction of said subsections. But before I go there, Mr. Vice-President, in my review of this Bill two major statements came to my mind, “the coalition of the willing” and “all hands on deck”.

Throughout the course of this entire debate on both sides, on three

sides of these various Benches, we have heard of concerns being raised about the administration of justice. And the administration of justice, and the concerns as relates to it, of course, it is a perennial problem that concerns us all. And why I make mention of “all hands on deck “and a “coalition of the willing” is because this Bill in essence shows our Government’s interest in working in tandem with the Judiciary to provide the Judiciary with all that it needs in order to ensure that we could improve the administration of justice in Trinidad and Tobago.

And that term “the coalition of the willing,” I take no credit for it, it is something that my brother, Sen. Bacchus, has always said to me. You know, I believe, Mr. Vice-President this is an opportunity where now—this Bill no doubt is something that the Judiciary wants, and our responsibility here now as the legislators is to work collectively with the Judiciary to put into law and into legislation systems that, of course, will help them in the execution of their mandate as we all work together, both as legislators and as members of the Judiciary, independent arms of the State working together hand-in-hand in order to be able to improve the administration of justice in Trinidad and Tobago.

I want to go to some profound words and this, of course, is not to simply be utopic but my Attorney General, our Attorney General, spoke about positivity in the previous Bill. That positivity, Mr. Vice-President, is what is critical for us to really be able—that mindset, and I come back again to the statement “the coalition of the willing” is what is so absolutely critical if we really want to improve the administration of justice system in Trinidad and Tobago. And to that end, Mr. Vice-President, before I jump into that

clause 4(b), and some of the new subsections that it intends to introduce, I want to take just a few little seconds or minutes to recognize the role that the independent Judiciary has already played and continues to play in improving its own systems in ensuring that we can move the judicial system in the direction, and the administration of justice, in the direction that will redound to only the benefit of every single stakeholder. Stakeholders such as the accused, such as the victims of crimes, such as the court itself, such as attorneys-at-law who practice, who are officers of the court who practice, and more so—and overall the public of Trinidad and Tobago.

Why I want to recognize the Judiciary is in preparation for this, you know, I heard Senators speak about—Sen. Dr. Dillon-Remy in particular in her contribution, the hon. Senator, would have mentioned about systems, her concern and her hopefulness that there are systems already in place or systems will be put into place by the Judiciary to ensure that once operationalized, things such as Internet, such as proper access to online platforms, all of that is available. What I can say as a practitioner, of course, prior to entering into this new seat in which I sit, prior to even the pandemic, the Judiciary to my mind had started long before the pandemic of putting systems in place in order to modernize its systems and its processes.

The pandemic, of course, expedited the rate at which some of its processes were implemented, no doubt. But, as a practitioner of the courts, any lawyer that sits here will have to agree with me that the Judiciary from the very get-go, years in advance of the pandemic, utilized subventions and allocations that were given to them budget after budget, appropriation Bill after appropriation Bill, to improve its systems. I have no doubt, there is

doubt in my mind, that by the time there is this full passage of this law which now moves us from where these systems were put into place by practice directions and so on and it is now legislation, I have to doubt at all that the Judiciary would have done their homework and put their systems in place to ensure now that once the rubber hits the road the citizens of this country can benefit from what we are legislating and what we hope to legislate today.

So much so, I remember in preparation for this Bill, I looked at a brochure that the Judiciary made reference to on its website and that brochure says:

“The Judiciary in alignment with international best practice is continuously working to ensure:

- Access to justice
- Equality, fairness and integrity
- Public trust and confidence
- Independence and accountability
- Expedition and timeliness.”

And throughout the length and breadth of that brochure on the Judiciary’s website, it also speaks to how—and systems that were put into place or that are being put into place, to be able to achieve each of these objectives.

I go back briefly again to “the coalition of the willing”. The Judiciary has started putting into place its systems in order to move the administration of justice. And I cannot speak again or speak enough about what the Judicial Education Institute led by Justice of Appeal Lucky is also doing for improving the administration of justice through, of course, training for



judicial officers, training for different entities. I have had the pleasure of working with JEITT to even come to AGLA, I think it is about in 20—it was right after I was sworn in, probably like late 2020 when JEITT came in based on our request and trained members of the Criminal Justice Unit based on my request, which, of course, was very beneficial.

And all of these are the pieces that—you know at AGLA the hon. Attorney General can attest to it, one of our mantras is bringing the pieces together. While we deal with the legal part of it, we believe in bringing the pieces together, it is critical to work with all of the other arms of State, and this, Mr. Vice-President, I could not jump into this Bill without recognizing the independent arm of the Judiciary and what it has already started to do in order to be able to move the administration of justice forward.

Now, this begs the question, what part do we now play in that coalition of the willing? We too as legislators must be willing to work with the Judiciary and other independent arms in order to be able to improve the justice system. Coming back again to the Attorney General's most profound words, we need to be positive about this, and of course, I am hopeful that we will get the support that we are looking for, even from the Opposition, as it relates to the passage of this Bill. Because, no doubt, we all agree that we each need to do our individual parts in, of course, improving the administration of justice for the benefit, of course, of Trinidad and Tobago as a whole.

Mr. Vice-President, Sen. Dr. Dillon-Remy would have spoken also about infrastructure and I was so grateful that again, my big brother Sen. Bacchus would have jumped in because on my notes here, I wrote “digital

transformation” and highlighted it in green. So, I am grateful that the hon. Senator, again who is a specialist in his own right, a man again who I have the world of respect for, would have jumped in and dealt with those concerns.

You know, Sen. Teemal would have raised also some concerns, which during my substantive contribution I would attempt to deal with a few of them; the AG I am sure will deal with many others. But in my substantive contribution I would look at in particular the issue of virtual offences because I know Sen. Teemal would have raised his concerns with that. And then that whole—Sen. Lutchmedial-Ramdial as well spoke about the whole issue of the interest of justice. I would deal with the new subsections 14 and 15, that clause 14(b) introduces, and at that juncture, I would look at the whole concept of the interest of justice as I continue my contribution.

So, Mr. Vice-President, with that being said, I want to immediately jump to clause—Well, of course, in this Bill, when we look at clause 3 of the Bill—Before I jump into clause 4, clause 3 of the Bill of course, is that clause that seeks to amend section 74 of the Supreme Court of Judicature Act and it is where to my mind we are moving from the very specific to the very general. Section 74 is where we spoke specifically of Port of Spain, specifically of San Fernando, specifically of Scarborough and we are moving from the specific to the general, which is now north, south, and Tobago.

The Attorney General certainly would have dealt with that in his piloting. But the simple two pence that I want to add as it relates to the policy that drove this amendment. The simple two pence that I want to add,

Mr. Vice-President, is that instead of limiting—What we are attempting to do is to no longer limit the Judiciary by the boundaries of San Fernando, Port of Spain and Scarborough. What we are doing is giving the Judiciary by north—Of course, moving from the specific to the very general we are allowing legislatively the Chief Justice now in the administration of justice to be able to make prudent decisions. Decisions of course, based on real-time concerns as it relates to where courtroom sittings are heard, where trials are heard, of course, the time and place of hearings and not limiting the Judiciary, and I know the Attorney General would have spoken about that.

**4.45 p.m.**

If I may give a live example, Mr. Vice-President. You know, I heard Sen. Lutchmedial-Ramdial speak about the San Fernando court and the state of disrepair that the San Fernando court is in. Believe it or not, Mr. Vice-President, moving from the specific to the general is seen, can be seen to have benefits if we take that example that Sen. Lutchmedial-Ramdial placed on the record as it relates to the San Fernando court, and I will explain what I mean by that.

The refurbishment works, Mr. Vice-President, undertaken by the San Fernando Supreme Court, as a matter of fact, had to be closed to ensure the completion of the work. Based on the law as it exists in section 74, it means that if a new court—that is the old section 74, because we are dealing with the specific, it means that if a new High Court has to be built, it has to be built in San Fernando, and the Judiciary is now locked in legislatively from moving its operations anywhere outside of San Fernando. So that very same example that Senator spoke about the disrepair of the court, had the

Judiciary had this legislative power back then, you may very well find that if San Fernando there simply was not a right fit or a right place for this building, for a new court to be built, the Judiciary could have explored other options that are available.

Another, Mr. Vice-President, I know is with the Children Court, for example, in south which is, by law, a High Court, was sited outside the boundaries of San Fernando after all efforts to find a site in San Fernando itself. So when there was a desire to now create the Children Court so that children's matters, and you see, it comes back again, again to another statement by the hon. Attorney General taking the court to the people.

Even in that instance that example of the Children Court, even in the attempt of the Judiciary to take the court to the people, the old section 74 would have no doubt presented challenges for the Judiciary, because it means now, if I have to look for a building, if I have to look for a space, if I have to look for a place, it has to be in San Fernando because that is what the law is requiring of me. That is just the simple—by virtue of these two simple examples that we, the Judiciary has already faced, I just wanted to place those practical examples on the record to explain why, how critical as simple as this moving from the specific to the general is, it is really not that simple. It really, really assists and really will assist the Judiciary in its operations. Once we give the Judiciary that support, each of us as legislators would have done our part in assisting in the administration of justice and assisting the Judiciary in, of course achieving, Mr. Vice-President, its mandate, and that is on clause 3.

Mr. Vice-President, now I wish to move to clause 4 of the Bill, and as

I said, I will not look at the entire clause 4. What I will focus on very briefly in my contribution, Mr. Vice-President, will be in that clause 4 the new subsections (2) and (3) that it introduces the new subsection—now (2) and (3) for the benefit of my colleagues who are following the Bill, the new subsections (2) and (3), those are the new subsections which allow the Chief Justice to appoint place and times for trials. And, yes, I would have touched on that so I will not belabour that point at all. I will focus on the new subsection (13). That new subsection, Mr. Vice-President, makes provision in the case of the commission of virtual offences, and hopefully there I will be able to address some of the concerns Sen. Teemal would have raised.

I would look at, Mr. Vice-President, the new subsections (14) and (15). Those new subsections deal with, it allows, well, in my own words, for adaptability and flexibility in the administration of justice. I will look at that. I will look at the new subsections—well, “like ah lookin at everything”. [*Laughter*] I will look at the new subsections (16) and (17). That, Mr. Vice-President, provides a way by which an accused can apply for a transfer of his matters, and I want to look at that because, of course, it deals with the interest of justice point, particularly the interest of justice point. Of course, if time permits I will briefly look sections (18) and (19). I really think I am looking at the entire section.

Anyway, Mr. Vice-President, as I continue. So, I will start, of course, by looking at the new subsections (2) and (3), and I will not belabour that point because, of course, I would have already spoken in looking at clause 3 of the Bill, what we were hoping to achieve, moving from the very general to the specific—moving, sorry, from the specific to the very general and by

way of examples of the issue that arose with the San Fernando court and, of course, the issue with the Children Court that was intended to be placed—that is in San Fernando, you know, I would have tried to, of course, in my own way explain why, by those examples, why that movement was critical and that amendment that we brought to section 74 was critical. So, I will move along, Mr. Vice-President, to the new subsection (13).

Now, the new subsection (13) deals with the provision of virtual offences. Now, Mr. Vice-President, the new subsection, this new subsection recognizes and, of course, well, I mean virtual—before I even get into that, I mean, let us just think about the times in which we live in. It is a new age, new technology and no doubt new crimes and new “smartmanism” existing throughout the world, of course, Trinidad and Tobago is not left behind.

Mr. Vice-President, the new subsection recognizes and, of course, or this new subsection (13) it recognizes, Mr. Vice-President, and appreciates and there are crimes that will be committed virtually in circumstances, Mr. Vice-President. But this specific provision, Mr. Vice-President, deals with, okay, this entire section deals, this entire clause deals with—this section, sorry, deals with locality. Am I going to have a matter being heard in north? Am I going to have a matter being heard in south? Am I going to have a matter being heard in Tobago? We know that one of the major considerations of where these matters are being heard is based on the locality of the crime, where the offence is being committed. There are virtual offences that occur on a laptop, that occur on a computer, that the locality of the offence is on a phone. The locality of the offence is very difficult to ascertain, very, very difficult to determine.

We have all spoken about the interest of justice as a consideration in determining where matters are heard, but how can we uphold the interest of justice in virtual offences if we have no clue where this offence is being committed? What can a judicial officer justifiably use to say, “Well, I am docketing this matter in ‘Sando’ or I am docketing this matter in Tobago or Port of Spain” and you really cannot ascertain where the offence itself was committed. As a consequence of that, in recognition of the commission of those virtual offences, Mr. Vice-President, where the locality of the offence is very difficult to determine, to my mind that is why we have this new subsection (13) that introduces the provision for virtual offences.

As an example, Mr. Vice-President, the origin of cybercrime offences, for example, which involve the use, as I said before, of a computer as an instrument to further, let us say, illegal ends, illegal ends such as fraud. Certain elements such as trafficking in persons, Mr. Vice-President, child pornography, Mr. Vice-President, and crimes associated—do not talk about intellectual property crimes that are all committed through the use of a device, and you cannot determine the locality of those offences. This provision by saying:

“In circumstances where an offence occurred....”

Because this is what the new section (13) says:

“In circumstances where an offence occurred virtually, a specific physical location cannot be established for an offence or it is otherwise in the interest of justice, the Director of Public Prosecutions may exercise a discretion to file an indictment at a designated Registry of the Supreme Court for the Criminal Court Division in

North Trinidad, South Trinidad...and in exercising the discretion, the Director of Public Prosecutions shall have regard..."

And, of course, it goes on to talk about all of the considerations that will be operating in the director's mind in making this particular decision.

Mr. Vice President, in such circumstances what this new subsection does, as it clearly states in the legislation in the Bill is that, of course, it gives the DPP the discretion to file indictments at any designated registry of the Criminal Court, north, south and in Tobago, of course, having considered all of the evidence that is available to the DPP, and apart from just evidence, live issues such as the availability, Mr. Vice President, sometimes of witnesses, and of course, paramount is in the interest of justice.

So when we speak of virtual offences and the inclusion of virtual offences, Mr. Vice President, in this new subsection it is with the intention or it is with the understanding, sorry, that there are offences based on the way in which things are progressing because crimes are progressing and developing, that there will be virtual offences in which the locality is difficult to determine; where do I docket this matter. If I docket this matter in south I can be challenged because, of course, a defence counsel, a bright defence counsel like myself back in my days could challenge the DPP, could challenge the prosecution as it relates to what was the consideration. We have an offence committed on a cell phone, and there are many, many evidential objections, Mr. Vice President, in matters like that, that can be raised as it relates to virtual offences.

As a consequence of that, Mr. Vice President, I wanted to, of course,



lend my support to this inclusion in the Bill because certainly the DPP, operating in the hon. DPP's mind, will, of course, be the interest of justice. I strongly believe we do not need to legislate to the hon. Director or the Judiciary what—we have included in the interest of justice. But I have every confidence in our independent arms of the State and I believe that they all understand what the interest of justice means, and that of course, based on the evidence that is before these honourable offices, based on, of course, witnesses and more so upholding the rule of law that in instances where virtual offences are created, the decisions, the right decision will be made as to where these offences ought to be docketed, where it ought to be heard. I just want to say that I lend my support wholeheartedly, Mr. Vice President, to those virtual offences and I believe that it is very critical for us to make that inclusion in this particular Bill.

Mr. Vice President, I move on now to the new subsection (14) and the new subsection (15), and it is what I term the adaptability and the flexibility, new subsections. Now, these new subsections, Mr. Vice President, it grants the court discretionary powers to order that a trial take place, of course, in north Trinidad having considered certain specific factors and once it furthers the interest of justice.

There is a wildly held view, Mr. Vice President, that court systems, for example, operate in a very—how should I put it?—in a very black and white environment and it is inflexible to surrounding changes. There has always been that statement. Some even say, Mr. Vice President, that court systems seem so be out of touch with day-to-day realities. Of course, I would have made many of those criticisms myself when I was a practitioner,

you know, because you understand the real challenges, the on-the-ground challenges of the accused, of your witnesses, of your clients on the ground.

**5.00 p.m.**

So therefore, there is this statement that the court sometimes is out of touch with the realities. I believe this new inclusion, the inclusion of this new subsection—that is why I term it as the “flexibility and the adaptability new subsection”. Mr. Vice-President, it is clear to my mind, from the suggested amendments that are recommended in this new subsection, that changes—that what it does, sorry, is that it changes the legal framework to the extent of what is required to support the Judiciary, of course, in directly responding, are to the changing needs of the society, Mr. Vice-President, while, I believe, appreciating the current shortfalls of the existing legislation. So, again, that is why I refer to this new subsection as the “adaptability and the flexibility subsection”.

Mr. Vice-President, this suggested amendment itself, it lends itself to the real possibility that a matter may have to be moved from north Trinidad for case management purposes. It also allows for the security of witnesses. It, of course, has its savings, you know, you could save time, you could save resources. Because this new subsection—especially for the members of the listening public, this new subsection (14) and subsection (15) says—well, especially subsection (14), but let me not read it because I am sure I will run out of time. But this new subsection itself, in essence, it is where:

“... a Judge or judicial officer may in any case either before the trial or on the arraignment of any person, order that the trial of such person shall take place in North Trinidad, if satisfied that—”

—of course:

(a) “a fair trial ...”

—if:

(b) “it is...convenient to the parties...”

—and of course:

(c) “the interest of justice...”—take place.

I believe that this adaptability, this flexibility, is very critical because, you know—I know Sen. Teemal asked the question if the north has something different that the south does not have, but if we look at subsection (15)—the new subsection (15), it says:

“Notwithstanding the place where a complaint or indictment is filed under this section, the Court shall give directions as to the place and time for the trial and if the Court directs that the case is to be tried at a place other than where the complaint or indictment was filed, all witnesses and accused persons who are bound...or summoned to attend the trial shall be summoned to attend...”—it.

So I believe notwithstanding subsection (14) above, subsection (15), you still have that flexibility where even though, yes, the court can say, “Okay, let us bring a matter to the north,” subsection (15) still allows the court, in the interest of justice, to not simply make a decision because north is better than south; certainly not. It gives the judicial officer the ultimate flexibility and the discretion, considering all the facts of the case, to decide where this matter is going to be docketed.

Mr. Vice-President, how much time do I have?

**Mr. Vice-President:** You finish at 5.10 p.m., you have seven minutes.

**Sen. The Hon. R. Sagramsingh-Sooklal:** Okay. Thank you, Mr. Vice-President. Now, in this clause—in this particular new subsection, of course, and throughout the length and breadth of this Bill, what we see featuring is the interest of justice, and I do agree that the interest of justice is, of course, critical to the administration of justice, and I am sure the Attorney General—as it relates to the concerns that Sen. Teemal would have raised, and Sen. Lutchmedial-Ramdial, I am sure the Attorney General in his winding up will address that concern and, of course, the drafting behind, you know—the drafting concerns that would be raised by the hon Senators.

Mr. Vice-President, if I now briefly—in this seven minutes that I have, if I now look at the new subsection (16) and subsection (17). Now, simply put, this new subsection is where the accused can make an application—an application of an accused to transfer his matter. So a matter has been docketed in north, or south, or Tobago, or wherever the case maybe, this provision allows, again, a kind of due process provision, where—and that is just in my own words—notwithstanding the fact that a decision has been made by the judicial officers to where the matter to ought be heard, you still have the accused having that right to make an application for his matter to be transferred.

Now, these subsections, Mr. Vice-President, it affords discretionary power, of course, to the court and provide, by way of application, for the DPP or the accused to have matters transferred. It is, of course, Mr. Vice-President, significant that a court can determine that a matter must be transferred if the ends of justice so requires, and that is very, very important. So notwithstanding a matter being docketed in north, south, or Tobago, there

may be issues that may arise during the course, or in consideration before the starting of these trials that may warrant, especially as it related to the interest of justice factor, that may require matters to be transferred.

And, of course, by giving the accused an opportunity to make an application and even in this instance, the DPP, for these matters to be transferred, I believe that is critical because, again, you are not pigeonholing or in the interest of just at least—what I should say is that we ensure that interest of justice, again, is upheld by giving that accused, of course, that opportunity to have a say in where his matter, of course, is docketed to be heard.

Now, of course, applications can be frivolous applications, where “I doh want to get up six o’ clock in de morning” to face traffic to come down to Port of Spain when the offence is committed in Port of Spain. There are all kinds of frivolous, sometimes, excuses that are made in certain applications, but that is why it is a discretionary power. Because in the exercise of its discretion, the court, again, will consider numerous factors, the interest of justice, of course, being paramount, and before a decision is made as to whether or not I will grant the application to accused as it relates to where his or her matter, of course, is being heard.

Now, Mr. Vice-President, it is, of course, significant that a court can determine that a matter must be transferred, as I said before, if the ends of justice so requires. It is also equally significant that the DPP has the ability to apply for the transfer of a matter. And I believe giving the DPP the opportunity to do that, again, can assist him, let us say, for example—I mean, you have real life human beings who work in the Office of the DPP.

You may have lawyers who, for whatever reason—significant reasons, whether it is security, whether it is safety, who may go to their Director and say, “Well, boss, I need this matter to be heard elsewhere because of X, Y and Z.” And by giving the DPP that opportunity that he too can make the application for these matters to be transferred, again, I believe it really allows for the Director not to be locked down by where matters are docketed by the court, another layer of due process, you know, where, of course, you do not have matters now just being stuck there because a lawyer said, “Well, I asked de boss for my matter to be moved and it cannot be moved, so I just doh show up to court.” And those are real-life issues that once you are on the ground in the court, you understand that may arise, and by giving the DPP that opportunity for even these matters to be transferred, that is what this new subsection (16) and subsection (17), Mr. Vice-President, of course, intends to achieve.

Mr. Vice-President, the new subsection (18) and subsection (19) deal with the whole provision of in-person and the whole hybrid hearings, and I think we all understand how very important those virtual hearings now are and of course, the hybrid processes are. And if there is one good that came out of COVID-19, I am sure we will all agree, was the extent to which we now use technology.

And we need to commend—of course, I need to find a way to commend my Government, the PNM Government, of course, running with the lessons that we learnt from, of course, the pandemic. We have the Ministry of Digital Transformation, which is like “pot salt”, and it is going to help us to be able to achieve all that we need to achieve to move the

criminal justice system, to move the administration of justice system, into the new frontier, into a new generation and new time.

Mr. Vice-President, I will briefly end—I will end as I started, all hands on deck, a coalition of the willing is what we are called upon. The Judiciary has done its part. We, as legislators, are now called upon to do our part and we, as the Government, ask for the support of this Bill. I thank you, Mr. Vice-President.

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

**5.10 p.m.**

**Mr. Vice-President:** Sen. Anthony Vieira SC.

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

**Sen. Anthony Vieira SC:** Thank you, Mr. Vice-President. Let me begin by saying that I have circulated a proposed amendment, and let me give credit to the person that inspired the amendment, that was Sen. Lutchmedial-Ramdial, having heard what she had said about clause 4(b)(16). So I want to give credit where it is due, the inspiration for the amendment came from her.

Now this simple but important Bill seeks to amend two statutes, the Supreme Court of Judicature Act and the Criminal Procedure Act. The amendments pertain to court sittings and related matters. They seek to upgrade and to streamline administrative and procedural processes for resolution of criminal cases in the High Court. At clause 3, the Bill seeks to broaden the court location references, which currently obtain under section 74. So instead of sittings of the High Court in Port of Spain, San Fernando and Scarborough, the reference will now be to court sittings in north Trinidad, south Trinidad, and Tobago. And there are two benefits to this

changing nomenclature. First, it means that court sittings will no longer be statutorily restricted to our capital cities, and so this is going to promote decentralization and accessibility for the public and other stakeholders. Secondly, it harmonizes the language between the Supreme Court of Judicature Act and the Criminal Procedure Act.

At clause 4, the Bill amends definitions at section 2 of the Criminal Procedure Act and regularizes a number of matters. So, it starts off with an attempt to simplify and clarify the titles and roles relating to the Registrar, Deputy Registrar and Assistant Registrar. So when you look at the Criminal Procedure Act, the definition at section 2 is convoluted, but Sen. Teemal sought clarification, and I tend to agree with him. I do not know if the proposed definition is making things any clearer, because if you read the proposed definition we are in effect saying that the Registrar is a Deputy Registrar and Assistant Registrar, and that just does not make sense to me. What is also clear though is that what has been going on in practice now has statutory force, so we are talking about court hearings to be in-person, to be virtual, or hybrid.

Now Sen. Dillon-Remy had a concern about what happens with these virtual hearings, and she is right. I mean, we do have glitches in the system where you have people being bumped off or the Internet connection being poor, but I want to tell you Senator that in my experience, the judges have become very adept at handling the technologies. And what tends to happen in practice is that you have virtual hearings for case management conferences, but when time comes for the trial and you want to do your examination and cross-examination those tend to be in person, so we have



the hybrid model being used more in practice.

[MR. PRESIDENT *in the Chair*]

No longer will we be using the 19<sup>th</sup> Century language which treats with place, time and mode of trial in relation to wards and counties, instead we will now speak about north Trinidad, south Trinidad, and Tobago, and the legislation says what those designations consist of. The designation “Court” as a place for trial is also made clear, and provision is made for the Chief Justice, by Order, to appoint places and time for trials in north Trinidad, south Trinidad, and Tobago. The legislation empowers judges when it is necessary in the interest of justice to do so, and subject, of course, to directions issued by the Chief Justice to hold court sittings anywhere in Trinidad and Tobago. So that is a remarkable accomplishment there.

The Bill confirms the Chief Justice’s power via practice direction, to direct our proceedings, documents, and other media will be filed at the Registries. And finally the Bill gives the DPP discretion to file indictments at any Registry where an offence occurred virtually and a physical location cannot be ascertained or justified for an offence. Now, Sen. Teemal picked up on the virtual and he wondered, well, what kind of offences are we talking about? Where will I find it? And so, of course, as we have heard, virtual crimes are really known as cybercrimes, and they encompass a range of illegal activities carried on in the digital realm. So, for example, phishing where you are sending fraudulent communications, identity theft, ransomware, which we heard so much about in the recent TSTT incident, hacking, cyberbullying, data breaches, all of these data offences, and they will be found whether under the Data Protection Act or in the cybercrime

legislation that we are still to bring to Parliament and conclude.

So those are just a few examples, there are many other forms, of course, of virtual crimes that can harm individuals, businesses and society as a whole, but the point here is that we are now allowing for these crimes to be dealt with statutorily in this form. So the proposed amendments are uncontroversial, they clarify certain matters, and they will enable our courts and Registries to be both modern and flexible. These administrative and procedural changes will help streamline our court processes, and I think they will in some way towards reducing backlog and delay. They should lead to faster resolutions and a more efficient judicial process.

Modern, flexible administrative judicial systems are in fact needed to cater for the situations that we have been talking about like virtual offences. These administrative and procedural changes should make it easier for the public, lawyers and other stakeholders to access court services, to be able to attend court sittings held outside of our cities where the interest of justice so require, they will facilitate electronic filings and online access. These administrative and procedural changes may, in due course, enhance public confidence in the legal system, especially towards ensuring that justice is perceived not just as fair and timely but relevant and accessible.

A lot of talk has been made about interest of justice. I would just point out that the term “interest of justice” is a term of art that is regularly used in litigation, but it is also dealt with under the Criminal Procedure Rules, under the mantle of the overriding objective and dealing with cases justly. So there is a whole philosophy and stuff behind the little term “interest of justice”, but when you see it there you know what it means. So, I believe

that these amendments can foster greater, and I like the word that the AG has used at least twice in his contributions, “interoperability” between registries, attorneys, the DPP, the public and other stakeholders, and they should, I believe, facilitate smoother and better coordination among the different branches of our justice system. And with those few words, I thank you.-

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

**Mr. President:** Sen. Maharaj.

**Sen. Sunity Maharaj:** Thank you. This Bill like the previous one is very a important but gradual, and gradual I should say, to modernization of the administration of justice, and so for that I welcome it and I am sorry that the Attorney General missed the note of optimism when I expressed my hope of more. But I do have have a genuinely rhetorical question to ask this time, and that is were it not for COVID when do you think we would have had virtual hearings or virtual case management or any of those things? I ask this question because I want to underscore the value of bold action, because I think that is what the administration of justice needs, and we have to have the courage for it.

In this case, and I think Sen. Vieira raised, used the word “decentralization”. I frankly do not see why it is necessary to redefine Port of Spain and San Fernando into north and south Trinidad. It is wherever the Chief Justice or where it is required for him to consult, declares a place suitable. But, I note the gradualized approach to this, because that is what we should be imagining, a system and a structure, an infrastructure of decentralized justice, a justice system that is decentralized that serves everybody at the lowest possible cost at the highest possible quality.

Do we really need to be spending \$85 million every year in transporting prisoners when we have so much state land up in the east that we could put a High Court and move prisoners in a short space? How are we spending our limited funds? How—why are we are burning all this carbon into the atmosphere? Why are we pushing everything into the city? We have an important—Hall of Justice is a complex, it is beautiful, but we need many small courts that fulfil the function. The time will come when we cannot get into Port of Spain for floods. How many times would you put off cases? And so the embrace—the challenge for us is not just to disconnect the law from the hidebound past, but to imagine a world that we are very quickly are going to be living in.

And so I support everything here in this Bill, but I want to put into our heads the possibility that we may be able to deliver justice more speedily at a lower cost if we can conceptualize a justice system that is not structured on large construction buildings but fit for purpose using technology, and with that I thank you.

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

**Mr. President:** Attorney General.

**The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC):** Thank you very much, Mr. President. I would like to deal with one of the submissions of Sen. Lutchmedial-Ramdial, which was not her first, but one that I think requires a little bit of attention. She referred to the language in the clause of the Bill which we seek to amend the Act with clause—repeal section 3 and substitute the following section, that begins with page 4 of the Bill, and then that takes us right across to page 10.

And the point that she made with reference to that section that is being replaced by this Bill is she would prefer to have consistency in the language that is used, because in some sections the words “in the interest of justice” are used, and in clause 3(13)—no, not 3(13) in clause 3(16), there is used the words, “the ends of justice so requires”.

So she has expressed concern with the fact that there should be consistency and that the words, “interest of justice” should be used throughout. And my answer to that is the words “interest of justice” and “ends of justice” can be used interchangeably, they do not mean anything different. But, more to the point, we have the new Criminal Procedure Rules, and I had introduced that when I was speaking on the earlier Bill, that AJIPAA (Amdt) Bill. But I would like to read into the record Part 3, clause or Rule 3 of the Criminal Procedure Rules, 2023 which had been introduced in late 2023 to implement and work alongside with all of the legislation dealing with the criminal justice system, and guides the discretion of all judges in the criminal jurisdiction.

**5.25 p.m.**

So Part 3 of the Criminal Procedure Rules, 2023, is headed:

“The Overriding Objective”

Rule 3.1 says:

“The overriding objective is to deal with criminal matters justly.”

So let us bear in mind the interest of justice, the ends of justice which are used in the clauses in this Bill, where the ends of justice so require. Rule 3.1:

“The overriding objective is to deal with....matters justly.”

## Rule 3.2:

“It is the duty of the Court and all parties and...”—all—  
“...participants, at every stage of proceedings where the context so  
requires, to further the overriding objective.”

## And then Rule 3.3:

“Dealing...”—so this is a direction to all judges when they are dealing  
with matters which come before them.

“Dealing with a criminal matter justly includes—

- (a) dealing with the prosecution and the defence fairly;
- (b) ensuring the protection of all the rights of an accused person;
- (c) considering the interests of the accused, witnesses, victims and jurors and keeping them informed of the progress of the matter, as necessary;
- (d) dealing with the matter efficiently and expeditiously;
- (e) ensuring that appropriate information is available to the Court, particularly when bail or sentence is under consideration; and
- (f) dealing with the matter in ways that take into account—
  - (i) the gravity of the offence;
  - (ii) the complexity of what is in issue;
  - (iii) the consequences for an accused and others who may be affected;
  - (iv) the needs of other matters; and
  - (v) allotting to the matter an appropriate share of the Court’s resources, while taking into account the need to allot resources to other

matters.”

And then Rule 3.4:

“The Court must seek to give effect to the overriding objective when it–

- (a) exercises any discretion given to it by these Rules; or
- (b) interprets the meaning of any rule or practice direction.”

So, it is my respectful submission to this House and to the Members, and in answer to Sen. Lutchmedial-Ramdial’s concern at the inconsistency between the terms, “interest of justice” and “ends of justice”, that whenever the judge comes to exercise a discretion as prescribed by the amendments that we are seeking to pass here, that judge is mandated by the Criminal Procedure Rules to apply the overriding objective and that overriding objective requires that judge to have the regard to all of the matters that I have just set out.

So that, I do not think that the inconsistencies in language, and I do not accept that, but it is the language that was used by Sen. Lutchmedial, the difference between ends of justice and interest of justice make a difference when the judge is sitting to adjudicate on the matter, because the rules prescribe the matters which the judge takes into consideration and gives that judge an overriding discretion to ensure that the trial is dealt with fairly in the final analysis, in the interest of justice to meet the ends of justice. So, that is my answer to that first point of Sen. Lutchmedial.

Sen. Lutchmedial made a couple other points which I will just touch on briefly. One of the further points that was made is on the question of the definition of hybrid trial. This requires the courtroom to be sufficiently

equipped to facilitate hybrid trials and the Government needs to ensure that resources are allocated for same. And in that general context, the concern was expressed about the witnesses and other persons having access to the facilities that the court is providing for purposes of dealing with hybrid trials.

Well, one of the things that I answer in relation to that, in response to that, is that the Judiciary has committed itself and expended a considerable amount of resources and money in equipping the virtual access centres around the country. There are currently 22 virtual access centres, five of which are in Tobago, that is under Practice Direction, May 17<sup>th</sup> 2021. Those virtual access centres have been equipped with customer service representatives and this is in answer to one of the concerns that Sen. Dr. Dillon-Remy had raised as well, that litigants who do not have the required technology should be presented with clear guidance for the hybrid virtual access process and the need to ensure that persons have access that is necessary.

I accept that concern, but in answer to both Sen. Lutchmedial and Sen. Dr. Dillon-Remy, the virtual access centres, not only are there the 22 across Trinidad and the five in Tobago, but those virtual access centres are equipped with customer service representatives to ensure that self-represented litigants and witnesses who are using those centres have sufficient support and guidance when participating in virtual hybrid matters.

So, there is a considerable effort that has gone towards recognizing that people are differently abled. I remember many years ago when my daughters were very young and I was having difficulty getting access to my



computer for something, my eight-year-old daughter at the time said, “Dad give it to me”, and she passed me back the computer in two minutes and said, “There I have got it for you”. The point is, people are differently abled but the Judiciary recognizes that. They will give the support and dedicate the resources and the specialized service towards supporting persons who are differently abled and I do not mean that in a disabled sense, but some of us do not use the technology as well as other people do and the Judiciary recognizes that.

So I see no hesitancy in recommending the hybrid and the virtual systems that are now part of our reality which we are every day—and Sen. Hassle Bacchus who is our resident expert on these matters has given us the assurance that it is not a panacea, it is not a silver bullet. There is constant daily commitment to improving the quality of the new world in which we live, in which so much is digital, so much is hybrid, so much is virtual and the more we use it—it is like riding a bicycle, the first day you get onto a bicycle you fall off and you ride it a couple more times and then you are riding it without holding on to the handlebars, you get better and better at it the more you use it. And that is what the virtual system is encouraging among the population of this country, we give it to you, we have people to help you and the more you use it the more familiar you become with it.

So those are my couple answers to two of the principal concerns that were raised between Sen. Lutchmedial and Sen. Dr. Dillon-Remy. I accept the concern that Sen. Dr. Dillon-Remy also makes, that there needs to be sensitization and public education in terms of assisting the public in the roll out and that is part of what I have already spoken to in terms of the

commitment of the Judiciary which we are very, very much aware of.

I had the unique experience, Mr. President. Last year I was encouraged to join the Chief Justice and the Court Executive Administrator on an IDB funded trip to Spain to deal with digital courts. I was present in Spain over a course of a week in training programmes and visiting with Ecuador and four other countries out of South and Central America and Spain, and when we came out of that consultation everybody in that consultation was over awed by the fact that the Trinidad and Tobago Judiciary is ahead of many countries in the western hemisphere—

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

**Sen. The Hon. R. Armour SC:**—in its digital capacity and its technology that it has driven in making courts that much more accessible through the digital resolution that Chief Justice Ivor Archie has introduced to Trinidad and Tobago. I commend him for that and I encourage him to keep up the good work.

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

**Sen. The Hon. R. Armour SC:** Sen. Teemal expressed some concerns. He was concerned about the removal of the Registrar. And I say to Sen. Teemal, under the legislation that has been brought into effect, section 68 of the Supreme Court of Adjudicature Act, there is only one Registrar of the Supreme Court and all the others are deputy registrars and assistant registrars who function substantively when they are in charge of their particular unit with all the powers of a registrar. It is a process of streamlining.

The other concerns that Sen. Teemal has urged us, whether they are

using the term “in virtual mode” rather than virtually. Well with respect, I accept that may be for the drafters to consider. I do not claim to be a draftsman and as I said in the earlier debate, on the earlier legislation and in this regard, I would christen Sen. Teemal as one of our stakeholders with whom we consult as the suggestions come and we have to come back here to improve it, we will improve it, we will take that into consideration with the Law Reform Commission.

As it stands now, I think that the Bill that we have before the House is good enough to be passed in the language that we presented with and I ask Members to support. And with those few words, Mr. President, I beg to move. Thank you.

*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 four clauses in this Bill. We have circulated amendments by Sen. Vieira. I am assuming that everyone is in possession of these amendments, these proposed amendments. Yes? Okay, all right, so we shall begin.

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

*Clause 4.*

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

**Mr. Chairman:** Sen. Vieira.

**Sen. Vieira SC:** Chair, before we get to my amendment, I would like to raise the issue about the Deputy Registrar. Because what we are saying is

that a deputy registrar and assistant registrar mean the Registrar, deputy registrars and assistant registrars appointed as such under the Supreme Court of Adjudicature, and to me that does not sound right. To me what you want to say is:

Registrar - The office of the Registrar includes Deputy Registrar and Assistant Registrar.

But I just find that the language here is clumsy and I do not know if we could improve on it.

**Mr. Chairman:** Attorney General.

**Sen. Armour SC:** Thank you, Mr. Chairman. I always defer to Sen. Vieira, but I regret that on this occasion I think the language is sufficiently clear.

**Mr. Chairman:** Okay. Sen. Vieira your proposed amendment.

**Sen. Vieira SC:** Thank you. So with regard to my proposed amendment, let me say as I said earlier, that I thought that Sen. Lutchmedial's observations on this clause were very helpful. Now, my proposed amendment does not make any fundamental change to the clause, I simply recalibrated the order. I have abbreviated words that I saw as redundant and I went with the well-known phrase in the "interest of justice" rather than reaching for the "ends of justice", because as Sen. Lutchmedial pointed out, the phrase has the advantage of being consistent. So that is it.

**Mr. Chairman:** Attorney General

**5.40 p.m.**

**Mr. Chairman:** Attorney General.

**Sen. Armour SC:** Thank you, Mr. Chairman. I will not repeat myself other than to say I do not accept the proposed amendment and I will not repeat myself other than to say, that I spent some time in my wind-up referring to

the Criminal Procedure Rules, clause 3(1), clause 3(2) and in particular clause 3(3), and when one has regard to the language of clause 3(3) it spells out very clearly what is meant and what are the considerations that any judge must take into consideration. So I think the language as used in the Bill, subclause (16), which Sen. Vieira wishes to amend is sufficiently clear. It is assisted in its interpretation by the Criminal Procedure Rules and I do not accept the proposed amendment.

**Mr. Chairman:** Okay. Sen. Vieira, is it the intention to have the question put on this amendment or would you withdraw?

**Sen. Vieira SC:** Chair, my role here is to help. I am not pushing any particular wording. I understand the difficulty that the Government faces. Were my amendments to be accepted, it will have to go back to the other place. I get it. I could live with it how it is cast, but I just think we could have done better but I understand the logistical problem. So I will leave it at that. I will withdraw my amendment.

*Amendment withdrawn*

**Mr. Chairman:** Okay.

**Sen. Armour SC:** May I say thank you to Sen. Vieira.

**Mr. Chairman:** Hon. Senators, the questions is that—[*Interruption*] Sen. Teemal.

**Sen Teemal:** Yes. Just one point I would like to raise. I did not mention that in the parent Act, section 3(7) in dealing with transfers, that there were time periods that were legislated there for the application of the transfer and then for the registrar to serve warrant. I cannot remember exactly the period, but I think it is 10 days and seven days respectively. I could be wrong. But in the amendment before us, we do not have any provisions

regarding time, and I was just wondering whether or not we should have included something with regard to time.

**Mr. Chairman:** Attorney General.

**Sen. Armour SC:** Thank you. I appreciate the point, Senator, but I am satisfied with the language of the Bill and the application of the parent Act. Thank you.

**Mr. Chairman:** Sen. Lutchmedial-Ramdial, you had your hand up? No?

**Sen. Lutchmedial-Ramdial:** No.

*Question put and agreed to.*

*Clause 4 ordered to stand part of the Bill.*

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

*Senate resumed.*

**Mr. President:** Attorney General.

**Sen. The Hon. Armour SC:** Thank you very much, Mr. President. I wish to report that the Miscellaneous Provisions (Administration of Justice) Bill, 2023, was considered in committee of the whole and approved without amendments. I now beg to move that the Senate agree with the committee's report.

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

## ADJOURNMENT

**The Minister of Tourism, Culture and the Arts and Acting Minister of Sport and Community Development (Sen. The Hon. Randall Mitchell):**

Mr. President, I beg to move that this Senate do adjourn to a date to be fixed.

**Mr. President:** Hon. Senators, before I put the question on the adjournment, leave has been granted for a matter to be raised on the Motion for the Adjournment of the Senate. Sen. Vieira.

**Copyright Act**  
**(Amendment to)**

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

**Sen. Anthony Vieira SC:** Thank you, Mr. President. In 2015, while working as the consultant for the World Intellectual Property Organization on making amendments to the Copyright Act to bring us within the Beijing and Marrakech treaties, I met with stakeholders, and during those consultations the desirability for an expansion of the term of “copyright protection” for our authors, the producers of sound recordings, and the moral rights of authors and performers became manifest.

In fact, there was unanimous support for that goal. However, as the WIPO brief was restricted to provisions relating solely to Beijing and Marrakech, I was unable to include amendments relating to the expansion of the term for copyright protection in the Bill which eventually came to Parliament, notwithstanding the positives. So happily, after the very encouraging stakeholder consultations, the Intellectual Property Office at the Office of the Attorney General and Ministry of Legal Affairs, led by the Controller, Mr. Regan Asgarali, took up the baton among other things, reaching out to WIPO for their views on the proposal. Again, the feedback was very positive. So accordingly, based on stakeholder and WIPO support, the IPO (Intellectual Property Office) crafted a policy document and prepared a Note for submission to Cabinet in the hope that amending legislation would be brought to Parliament.

Today, nearly a decade since those initial stakeholder consultations, nothing has been brought to Parliament. So I call on the Government to make the following amendments to the Copyright Act.

**UNREVISED**

At section 19(1) by deleting the word “fifty” and substituting it with the word “seventy”. So it would read as follows:

“Subject to the provisions of subsections (2) to (5), copyright and moral rights of the author shall be protected during the life of the author and for...”—seventy—“years after his death.”

At section 19(2) by deleting the word “fifty” and substituting it with the word “seventy”. So it would read:

“In the case of a work of joint authorship, copyright and moral rights shall be protected during the life of the last surviving author and for...” —seventy—“years after his death.”

At 19A by deleting the word “fifty” and substituting it with the word “seventy”. So it would read:

“The rights”—protected—“under section 18(4) shall be protected until the end of the...”—seventieth—“...year following the year in which the performance was fixed in a sound recording or, in the absence of such a fixation, from the end of the year in which the performance took place.”

At section 21(4) by deleting the word “fiftieth” and substituting it with the word “seventieth”. So it would read:

“The rights under this section shall be protected from the moment in which the performance takes place until the end of the...”—seventieth—“...year...in which the performance...”—was fixed.

At section 22(2), by deleting the word “fiftieth” and substituting it with the word “seventieth”. So it would read:

“The rights under subsection (1) shall be protected from the



publication of the sound recording until the end of the...”—seventieth—“calendar year following the year of publication or, if the sound recording has not been published, from the fixation of the sound recording until the end of the...”—seventieth—“calendar year following the year of fixation.”

At 23(4) by deleting the word “fiftieth” and substituting it with the word “seventieth”. So it would read:

“The right to an equitable remuneration under this section shall subsist from the date of publication of the sound recording until the end of the...”—seventieth—“calendar year following the year of publication or, if the sound recording has not been published, from the date of fixation of the sound recording until the end of the...”—seventieth— “calendar year following the year of fixation.”

Mr. President, these are modest changes, but they will have substantial positive impact. They are modest changes in that they are only looking for an increase of 20 years, from 50, as the law currently stands, to 70. In some countries, like for example, Jamaica, the term of protection is the life of the author plus a century after his death. So the 70 years I am proposing is regarded generally as an acceptable international standard and, in fact, that standard already exists in at least 84 countries. So indeed, in some of our international markets including the United States and Europe, the term of copyright protection for sound recordings extends not just at 70, but even 95 and 120 years. So we are lagging and that puts us at an economic disadvantage.

So to put the requested amendments in context consider the following:

The original recording of “Jean and Dinah” composed in 1956 went into the public domain in 2006, 50 years after publication. The song “Tempo” composed by Cecil Hume, performed by Maestro and published in 1975, has just one more year before the sound recording falls into the public domain. As Cecil died in 1977, his family only has four more years to receive royalties. Winston Bailey, the Shadow, published “Bass Man” in 1974. That sound recording fell into the public domain this year, and as Shadow died in 2018, his family is going to stop getting royalties for this and all his other songs in 2068. “Rain-O-Rama”, published by Lord Kitchener in 1973, that fell into the public domain in 2023. And as Kitch died in 2000, his estate will cease getting royalties from his very extensive repertoire in 2050.

The purpose of copyright protection is to give creators the exclusive right to use and to distribute their work for a certain period, and this encourages creativity by allowing creators to benefit from their work whether financially or through recognition. It also helps protect against unauthorized reproduction, unauthorized use of their works by others. And so, the term of copyright protection—

**Mr. President:** Senator, you have two more minutes.

**Sen. A. Vieira SC:**—is important because it determines the length of time during which the creator or his designated rights holder has exclusive right to his work. The time frame allows the creator to control how much of his work is used, reproduced and distributed. It also affects when the work will enter into the public domain.

So as we transition to this multidimensional economy, which should include the orange economy, these changes will benefit our creators,

performers and the wider economy. There is a lot I can say, there are a lot more examples I would love to give, time does not allow. Suffice to say that the proposed amendments are consistent with the philosophy and ideals of the copyright regime they are in step with the rest of the world and they can bring new life to old sound recordings.

**5.55 p.m.**

The proposed amendments will enable our local artistes and producers to compete globally in the digital space, among other things, by being able to digitize their old sound recordings and their old masters. By ensuring that a significant number of our local works will be copyright protected for 20 years longer, the county's ability to commercially benefit from its rich heritage and culture will be enhanced. I thank you.

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

**Mr. President:** Attorney General.

**The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC):** Thank you very much, Mr. President. It is with a sense of pride and indeed a sense of almost elation that I am able to say to Sen. Vieira this evening, I have good news for you.

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

**Sen. Mitchell:** The PNM cares.

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

**Sen. The Hon. R. Armour SC:** I bring to the attention of the Senate this evening—but before that, let me preface it because I do not want it to appear to be a reaction. As a result of the very hard work by an inspired young man by the name of Regan Asgarali—

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

**Sen. The Hon. R. Armour SC:**—the Director of the Intellectual Property Office, Office of the Attorney General and Ministry of Legal Affairs, Trinidad and Tobago, Cabinet, yesterday, passed a Cabinet Note to bring into effect everything that Sen. Vieira has asked.

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

**Sen. Mitchell:** We care.

**Sen. The Hon. R. Armour SC:** And that Cabinet Note was drafted by Mr. Regan Asgarali in consultation with me, following the consultations that had been held on March 2<sup>nd</sup>, April 13<sup>th</sup>, July 7<sup>th</sup>, August 19<sup>th</sup> and October 22<sup>nd</sup> that led to the amendment to the Copyright (Amdt.) Act of 2020, and the policy document which had been formulated by the TTIPO to that end. And the Cabinet Note that has now been a passed, which will find its way before this august Senate and the other place in the form of the legislation, is to extend to life of the author and 50 years after his death—the life of the author and 70 years after his death for authors and works of joint authorship, and neighbouring rights to be extended from 50 years to 70 years for performers and producers of sound recordings. It has also been recommended that the corresponding duration of the term of protection for moral rights be extended.

And the Note which came to Cabinet was informed by a policy document that had been prepared and given to me by Mr. Asgarali to inform the Cabinet, the copyright policy, which had been drafted by the TTIPO, justifying the extension or the duration of the term of protection for copyright and neighbouring rights for authors, including works of joint

authorship, performers and producers of sound recordings; extension of the duration of the term of protection for moral rights for authors, including works of joint authorship and performance with comments and approval from IPO. All of that informed the passage of the Note which was passed in Cabinet yesterday.

In the international landscape, we took into consideration the very many jurisdictions, including the United Kingdom, the United States of America, the European Union, which have increased the term of protection of life of the author and 50 years after his death, to the life of the author and 70 years after his death. And in this respect, the increased term of protection to the life of the author and 70 years after his death is consistent with the new global standard for the duration of copyright protection. The United Kingdom, the United States of America and Europe are critical markets for copyright protected works created by Trinidad and Tobago authors and as such, the extension of the term of protection, which Cabinet has now approved, is in line with international best practice whilst ensuring that our authors will benefit in the international markets.

In fact, the International Federation of the Phonographic Industry, IFPI, has noted the growth and development of the creative industries in Trinidad and Tobago, and recommended increasing the term of protection for sound recordings to 70 years in the Copyright Act. We took that into consideration.

Mr President, I will go further to say that we will now have a situation in which there will be an increase in the term of protection of sound recordings to enable Trinidad and Tobago's artistes and producers to

compete globally in the digital age. The retention of the current 50-year term of protection for sound recordings would have continued to subject holders to rights of unfair competition in a fast, evolving, digital ecosystem, especially in light of the fact that the 70-year term of protection has become the new standard across the globe. Cabinet accepted those recommendations in its passage of that Cabinet Note yesterday and joined at least 69 other countries in providing a term of protection of sound recordings up to the 70-year limit.

As it pertains to performers, part of the policy document informed us of a billboard article, which quoted the Council of the European Union of Ministers in Brussels talking about performers who generally start their careers—and you would have mentioned a couple of our own artistes, Sen. Vieira—young, and the current protection of 50 years often does not protect their performances for their entire lifetime. So that has been taken into consideration as well.

So, Mr. President, in a nutshell, I am able to assure this House that as a result of the Cabinet Note, which was passed yesterday, in answer to the—in elaboration of the hard work of Mr. Regan Asgarali, which answers the concerns of Sen. Vieira, the anticipated benefits of the Copyright Act, when amended along with the lines of this Cabinet Note, will facilitate the extension of the duration of the term of protection for copyright and neighbouring rights for authors, including works of joint authorship, performers and producers of sound recordings, and facilitate the extension of the duration of the term of protection from moral rights for authors, including works of joint authorship and performers to include the

following:

- Global competitiveness by Trinidad and Tobago's authors, artistes and producers;
- Increased national, regional and international investments;
- Incentivizing creativity among authors, including works of joint authorship, performers and producers of sound recordings;
- Protection and stimulation of Trinidad and Tobago's heritage and culture;
- Provision of remuneration for work;
- Contribution to gross domestic product and stimulation of the copyright industry;
- Compliance with international trends in copyright duration;
- The development of our music industry; and
- Harmonization with the trade policy of the Ministry of Trade and Industry for valuation and sensitization.

Mr. President, in closing, I say, again, thank you to Mr. Regan Asgarali, and I beg to move.

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

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.03 p.m.*