

SENATE*Thursday, July 04, 2024*

The Senate met at 2.00 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**MISCELLAENOUS PROVISIONS (JUDICIAL AND LEGAL SERVICE)
BILL, 2024**

Bill to amend the Constitution of the Republic of Trinidad and Tobago; the Judicial and Legal Service Act, Chap. 6:01; the Children Act, Chap. 46:01; the Patents Act, Chap. 82:76 and the Legal Profession Act, Chap. 90:03 with respect to the administration of the Ministry of Legal Affairs and for related matters, brought from the House of Representatives [*The Attorney General*]; read the first time.

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

Question put and agreed to.

**ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS
(AMDT.) (NO. 2) BILL, 2024**

Bill to amend the Supreme Court of Judicature Act, Chap. 4:01 and the Criminal Procedure Act, Chat. 12:02 in relation to the place and time for sittings of a court and to provide for related matters, brought from the House of Representatives [*The Attorney General*]; read the first time.

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

Question put and agreed to.

National Musical Instrument Bill, 2023**UNREVISED**

Bill to provide for the designation of Steelpan as the National Musical Instrument of the Republic of Trinidad and Tobago and for related matter, brought from the House of Representatives [*The Minister of Tourism, Culture and Arts*]; read the first time.

Motion made: That the next stage be taken later in the proceedings [*Sen. The Hon. R. Mitchell*]

Question put and agreed to.

VISITORS

Edinburgh Government Primary School

Mr. President: Hon. Senators, permit me to advise you that the Edinburgh Government Primary School are in the public gallery today to observe today's proceedings. Please join me in welcoming them.

Hon. Senators: [*Desk thumping*]

URGENT QUESTIONS

Strategic Services Agency

(Oversight Mechanisms for Prevention of Breach)

Sen. Dr. Paul Richards: Thank you, Mr. President. Good afternoon colleagues. To the Minister of National Security: Given the Prime Minister's Statement on the audit of the Strategic Services Agency (SSA)'s operations, can the Minister indicate what additional oversight mechanisms have been initiated to prevent the recurrence of this type of breach in the national security apparatus?

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very warmly, Mr. President. When the Prime Minister of a nation, this nation in particular, issues a statement as he did only yesterday, and as comprehensively and illuminatingly as he did, there is precious more useful, that his Minister can add on

the matter raised by my friend, Sen. Dr. Richards. Suffice it to say that since the 3rd of March, 2024, the Director of the SSA reports bi-monthly to the Chair of the National Security Council, attends meetings as often as requested so to do by the National Security Council, and meets monthly with the Minister of National Security in accordance with section 45 of the Strategic Services Agency Act of Trinidad and Tobago. Altogether, Mr. President, oversight remains with the National Security Council. Thank you.

Mr. President: Sen. Dr. Paul Richards.

Sen. Dr. P. Richards: Thank you Mr. President. Through you, can the Minister, indicate, how despite these meetings, and despite the Minister's indications of these oversight mechanisms, how the types of breaches that the Prime Minister outlined could actually have occurred compromising the country's top intelligence agency?

Mr. President: Minister.

Hon. F. Hinds: Mr. President, in the way of the world things happen. As one writer previously wrote, there is no art to find the minds construction in the face. What I can say, is that once these matters came to the attention of the National Security Council, when they did, we acted promptly in the national interest and the records will show what we had done.

Hon. Senators: [*Desk thumping*]

Mr. President: Senator.

Sen. Dr. P. Richards: Thank you, Mr. President. Can the Minister indicate how promptly the information came to the National Security Council, since given the document that was released yesterday, and I presume the one I received was accurate, there had been an exponential increase in the purchase of ammunition

from 2020 to 2021, almost doubling in 2022, seemingly without the knowledge of the National Security Council by the SSA?

Mr. President: Minister.

Hon. F. Hinds: I do not want to chance a date, but it was a few months ago when information came to the National Security Council, the Prime Minister addressed this country on that some time ago, and did so even more comprehensively yesterday. And as soon as that information came to hand—and of course the Government and through the National Security Council cannot act precipitously or whimsically—the Government acted responsibly and promptly in the widest and deepest national interest. Thank you very much.

Hon. Senators: [*Desk thumping*]

Strategic Services Agency Operations
(Urgent Measures to Prevent Compromise)

Sen. Dr. Paul Richards: Thank you, Mr. President. To the Minister of National Security. Given the Prime Minister's recent statement on the Strategic Services Agency (SSA)'s operations, can the Minister indicate what urgent measures the Government intends to pursue to prevent any potential compromise of national security agencies that routinely interface with the SSA?

2.10 pm

Mr. President: Minister.

The Minister of National Security (Hon. Fitzgerald Hinds): As the Prime Minister indicated yesterday, a full and thorough audit of all aspects of the operations of the SSA has been put in place. It is ongoing. The Prime Minister's statement yesterday was punctuated by the assurance and on the fact that while this audit is taking place, or these audits, the core business of the SSA continued apace. And I am in a position, as the Minister of National Security, to say so.

In addition to that, a draft national security interagency concept of operation has been drafted, and it is now for revision by the national interagency committee for review and assessment, and hence, a subsequent submission to the National Security Council for its consideration. Thank you.

Mr. President: Senator.

Sen. Dr. Richards: Thank you. Can the Minister indicate if the Government, given part of SSA's remit and responsibility in supplying analysis/data to other security agencies and the National Security Council, and they have also supplied documents to the Parliament's Joint Select Committee on National Security, if the Government has examined previous reports from the SSA to identify if those reports are compromised and/or misleading?

Mr. President: Minister.

Hon. F. Hinds: As I indicated, and the Prime Minister previously did, there are audits taking place into every aspect of the operations and the work of the SSA, and I have no doubt, matters such as that, would be contemplated in those audits. Thank you, Mr. President.

Mr. President: Senator.

Strategic Services Agency

(Strategies implemented)

Sen. Dr. Paul Richards: Thank you, Mr. President, through you, to the Minister of National Security: Can the Minister indicate what strategies have been implemented to mitigate the potential carnage that can result from the 70,000 rounds of missing ammunition that was purchased by the SSA potentially ending up in the hands of criminals?

Mr. President: Minister.

The Minister of National Security (Hon. Fitzgerald Hinds): Every single round

of ammunition that finds itself in unlawful hands with the prospects for misuse, abuse, poses a very serious threat. So obviously, given the Prime Minister's observations that 70,000 rounds of ammunition are yet unrecorded and unaccounted for, this obviously poses a grave and a very serious threat to the citizens and visitors of Trinidad and Tobago, and of course, to national security. That is the reason why accountability in the business of firearms and ammunition, their movement, their use, is so critical. So, Mr. President, the police, as the Prime Minister indicated, is pursuing this particular matter, meticulously, and hopefully to a very successful finding or end. Thank you very much.

Mr. President: Senator, do you have any more supplementals?

Sen. Dr. Richards: One more. Can the Minister indicate if, because of what has been identified in this report presented by the hon. Prime Minister, in the other place, if there has been an examination of the possible infiltration of similar rogue elements in other national security agencies?

Mr. President: Minister.

Hon. F. Hinds: For the moment, I confine myself to the statement of the Prime Minister yesterday, upon which the question is premised. Audits are on the way, very thorough audits, into every aspect of their operations and certainly, this matter and relevant matters, will be pursued and will be taken into account.

Mr. President: Sen. Mark.

Sen. Mark: Mr. President, I just wanted to ask the hon. Minister—

Mr. President: Are you asking your Urgent Question?

Sen. Mark: Yes. Yes.

Mr. President: Go ahead.

**Unaccounted Ammunition Purchased by SSA
(Assistance from Foreign Counterparts to Retrieve)**

**Unaccounted Ammunition Purchased by SSA
(Assistance to Retrieve)**

Sen. Wade Mark: To the hon. Minister of National Security: In light of the alarming revelation that 70,000 rounds of ammunition purchased by the SSA are now unrecorded and unaccounted for, can the Minister indicate whether the Government has sought the assistance from our foreign counterparts to aid their retrieval?

Mr. President: Minister.

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much, Mr. President. We have not done so, as yet, purely because at this juncture, it has not been deemed to be necessary, since the sources of this failure in the controlled equipment and supplies inventory management at the SSA does not exceed the investigative and corrective expertise, and capacity in Trinidad and Tobago, particularly, as it resides in the Trinidad and Tobago Police Service. But, for completion, in answer to my friend, Sen. Mark, we cooperate with our foreign partners, every one of them, and this cooperation transpires on an ongoing basis. I thank you, Mr. President.

Mr. President: Hon. Senators, the time for Urgent Questions has ended.

**Standing Order 77(3)
(Bills Restored to Order Paper)**

Mr. President: Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. A. Browne): Mr. President, in accordance with Standing Order 77 (3), I beg to move that the following Bills be restored to the Order Paper in the Fifth Session, 2024/2025, of the Twelfth Parliament:

1. The Private Security Industry Bill, 2022.

2. The Supplemental Police (Amdt.) Bill, 2022.
3. The Sexual Offences (Amdt.) Bill, 2024.

Question put and agreed to.

Mr. President: Attorney General.

BAIL (AMDT.) BILL, 2024

Order for second reading read.

Hon. Members: [*Desk thumping*]

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

A Bill to amend the Bail Act Chap. 4:60 be now read a second time.

Before I get into my substantive comments on the clauses of the Bill, Mr. President, permit me to make a few prefatory remarks as I introduce this Bill.

Firstly, the decision of the Privy Council in the case of the *Attorney General v Akili Charles* [2022] UKPC 31, was delivered on the 28th of July 2022 and, significantly, followed shortly after the reasoning of the decision of this Board, the same Privy Council, in *Suraj v Attorney General* [2022] UKPC 26. Akili Charles proceeded to apply the reasoning of the Suraj decision with respect to the issue that this Bill addresses today, that is to say, the entitlement of citizens of this country to bail.

Secondly, Mr. President, and of course, I will discuss the Akili Charles decision in some detail, but I consider it important to state from the outset, two significant points which emerged from that decision. On the first principle issue which was before the Board, whether the bail provision in the Act, then being challenged, the 1994 Bail Act, was an existing law under section 6 of our

Constitution. In holding that it was not an existing law, the Board of the Privy Council underscored a very important common law position, dating back to 1898 and the decision of the Queen and Spilsbury. I quote from the Privy Council decision in Akili Charles, in that regard:

“This court has, independently of statute, by the common law, jurisdiction to admit to bail...the court...or any judge...in vacation, not being restrained or affected by...statute...in the plenitude of that power which they enjoy at common law, may in their discretion, admit persons to bail in all cases whatsoever...”

The point emerging here, which is being emphasized by Akili Charles, and which we salute and pay respect to, Mr. President, is the proper respect which must be had to the judicial discretion which this Bill respects, and by the provisions of this Bill, is asking this House to legislate, to provide guidelines for.

2.20 p.m.

And the decision in Akili Charles, Mr. President, endorsed and accepted the Court of Appeal reasoning of this jurisdiction at paragraph 37 of the judgment the Privy Council stated:

“The board therefore agrees with the Court of Appeal that at common law there was no existing law prohibiting the grant of bail in murder cases either pre or post-committal.”

And I emphasize the point because there are some of us in this society who continue to think that the only judges who are capable of applying law are the members of the Privy Council. I emphasize the point, that the significant decision in Akili Charles, for all its reasoned decision the Board accepted, endorsed and embraced the rationale and the reasoning of the Court of Appeal of the Supreme Court of Trinidad and Tobago.

On the second principle issue, with reference to which the board in Akili Charles had to apply section 13 of our Constitution, the board reminded itself of the now refined and applicable proportionality test as defined in Suraj. Mr. President, in examining and discussing this Bill today, it is useful to remind ourselves as parliamentarians, that is to say, Members of this honourable Chamber, of the powerful reasoning of the board at paragraph 56 of the Akili Charles decision and I refer in that regard to paragraph 56 subparagraphs, 1, 2, 3, and 4 of that decision which state and I quote:

“(1) The onus is on the complainant to show that the measure is not ‘reasonably justifiable’.”

That is to say, the measure proposed by the draft legislation, the Bill.

“This places a ‘heavy burden’ on the complainant and a court will be slow to conclude that this has been shown...”

Secondly, Akili Charles states:

“(2) The test of proportionality appropriate under section 13(1) involves a lesser intensity of review by the courts and a wider margin of appreciation or discretion for the state, acting by legislation passed by a super-majority in both...”—Chambers—...“of Parliament...”

(3) In relation to such legislation, Parliament will have identified in a particularly clear and forceful way its opinion as to where the public interest lies.”

I pause there to emphasize and to repeat because we are the Parliament of Trinidad and Tobago, we are the Senate Chamber of the bicameral Parliament of this Chamber and the other place.

“(3) In relation to such legislation, Parliament will have identified in a particularly clear and forceful way its opinion as to where the public

interest lies. In a democratic state, the courts must be expected to be especially respectful of the choice made by Parliament to pass legislation in that form and slow to substitute their own view of the necessity for and proportionality of the measure taken...

- (4) Although the court has to make the ultimate judgment whether the proviso in section 13(1) has been satisfied or not, it is obliged in doing so to give especially great weight to the judgment of Parliament regarding the importance of the public interest which is sought to be promoted by the measure in question...”

I have read from four paragraphs of the judgment of Akili Charles and in those four paragraphs, twice, the Privy Council repeats its focus on the role of Parliament to determine what is in the public interest of the democratic country of Trinidad and Tobago. And what we are here about today, Mr. President, is the public interest of securing the safety of our citizens from crime, and in particular crime constantly being committed by repeat offenders who are given bail and come back out to continue to perpetrate their dastardly deeds on an unsuspecting innocent citizen.

The point which I wish to emphasize emerging from Akili Charles and relying on the Suraj decision, and applicable now to this Bill, applying the reason of the Privy Council which I have just quoted from, is that it is for this Parliament, Mr. President, Members of this august Chamber in our consideration of this Bill and all that I will place before this Chamber today, to apply the proportionality test framed in a way which gives especially strong judgment to our decision in Parliament regarding the imperative nature of that public interest to identify:

“...in a particularly clear and forceful way its opinion”—Parliament’s opinion— “as to where the public interest lies.”

So, that it is for us today, Mr. President, as responsible Senators to accept our mandate conferred by sections 40 and 53 of our Constitution as legislators, in these challenging times to pass constitutionally compliant legislation whether by simple or super majority tailored to protect and serve the public interest. Reminded of the injunction of the Privy Council that, and I quote:

“In a democratic state, the courts must be expected to be especially respectful of the choice made by”—us, I interpose, in—“Parliament to pass legislation in that form and”—I interpose, by a balance and appropriate exercise of our discretion and respecting the decision of the Judiciary dating back to 1898, the courts must be—“slow to substitute their...view of the necessity for and proportionality of the measure taken...”

Mr. President, the passing of this Bill today, which this Government puts before this Chamber, is the point of opportunity for us as responsible Members of the Legislature to have confidence in ourselves to do our job, to pass this amendment Bill in the public interest. And equally to have the confidence in our judges exercising their ancient 1898 discretionary jurisdiction to respect and interpret this amending legislation with appropriate balance as the Privy Council has reminded us in Akili Charles.

Accordingly, Mr. President, by the presentation of this Bill for debate and passage today, it is the intention of this Government, one, for this Chamber constituted as it has been under the mandate of the Constitution, section 53 to:

“...make laws for the peace, order and good government of Trinidad and Tobago...”

And by the first amendments to the Bail Act, and I stress that. The first amendments to the Bail Act brought before this Parliament since the 28th of July, 2022 decision to pass this Bill in recognition and affirmation of that Akili Charles

decision. And that decision has affirmed the confidence of the Privy Council in the correctness of our judges of Trinidad and Tobago, our Court of Appeal, and the discretion of our judges to exercise their ancient judicial discretion to grant or refuse bail in accordance with well-established common law principles. So, that the guidelines which by this Bill, we ask Parliament to pass into law serving the public interest, are guidelines to assist our Judiciary in serving that public interest, to get the balance right in the conditions and the exercise of their discretion as to when, or when not they will grant bail on applications brought before the courts for that bail to be granted.

It is the intention of this Government, Mr. President, to introduce, therefore, legislative guidelines with respect to the grant or refusal of that bail for serious offences, unless, the accused can prove to the satisfaction of the court, that his continuation in remand is not justified because he as the applicant before the courts can show sufficient cause or exceptional circumstances why he should be granted bail. Otherwise, the courts will say, no you must remain there until your trial comes up.

Thirdly, as part of this Government's continuing commitment to:

“...make laws for the peace, order and good government of Trinidad and Tobago...”

—citizens, we wish to introduce and we have been over the last several years, Mr. President. And this piece of legislation, this Bill is but part of that tapestry which this Government has been putting onto our law books to introduce a more expeditious criminal justice system to facilitate expeditious justice. And in that regard, I site as one of the more recent examples the:

“Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011)”

AJIPA, which has accomplished among other things, the abolition of preliminary enquiries which have been a blot on due process and respect for fundamental rights and freedom. There are cases in our courts today, which are still in year 13 of the preliminary enquiry process. And AJIPA has been introduced by this Government out of respect for the rights of accused persons who are in remand awaiting trial to stop that insufferable delay in the delivery of justice and give them their right to a fair trial in an expeditious period of time. And in that period of time, if they can satisfy the Judiciary, that there are exceptional reasons why they should be granted bail and put back out into society, so be it, the court will have exercised its jurisdiction. But if they are not able to satisfy the court, that exceptional reasons exist why they should be released back into society while they await trial, they shall remain on remand.

Mr. President, the Akili Charles decision is of major significance since it was settled on the 28th of July. Prior to that decision, Mr. President, the offence of murder was one of the non-bailable offences listed in Part I of the First Schedule to Act and we have seen that the Privy Council has said that that non-bailable aspect of murder was contrary to the common law and therefore, unconstitutional. So, as a result, the Privy Council declared that section (5)(1) of that 1994 Act was unconstitutional. And the Privy Council declared section (5)(1) to be unconstitutional as being disproportionate, because what it introduced in (5)(1) was a blanket approach. And one of the examples which is given in the Privy Council decision of Akili Charles, one of the cases that they considered in arriving at the decision to find that the denial of bail was not constitutional is a very good practical example. You can have two people on trial for murder, one who is an accused terrorist who has just blown up 100 people, that person is in remand awaiting trial for a serious offence and applies for bail.

2.35 p.m.

Another person is also on remand for bail because he or she is a partner of someone who was terminally ill and participated in what is known as a mercy killing. So that person is now also charged with murder and that person is also on remand. The blanket approach to deny the Judiciary the exercise of jurisdiction, to be able to say in the case of person on trial for a mercy killing that you are not allowed bail because no bail must be allowed for anyone charged with murder, is what the Privy Council found to be disproportionate because you cannot apply that blanket approach to everyone charged with the bail.

The alleged terrorist justifiably should remain in jail because of the fears of what he may do if he is released back on to society. But someone who, out of compassion, living for the years with her partner or his partner, and unable to deal with the agony of seeing that person continue to suffer, bedridden for years, does what the law refers to as a mercy killing, and are you going to say that that person must remain in jail for the five years it takes for the trial to come around? Privy Council said, no. That is wrong. That is disproportionate. That was one of the examples that was looked at by the Privy Council in the Akili Charles decision.

So the Privy Council has told us, Mr. President, that the objectives which are being achieved, must be achieved by less intrusive means. The Board explained that instead of removing the court's discretion altogether, conditions in relation to that 1994 Act could have been introduced by Parliament to guide the court's discretion, and that is exactly what we are asking the Parliament today to do, to introduce, respecting and recognizing the decision of Akili Charles, that the denial of bail, the blanket approach is unlawful. We are asking this court today to pass a Bill which will introduce conditions by which the judicial discretion, dating back to 1898, can be properly exercised in balanced terms, in other words, in

proportionate terms.

Mr. President, we accept that the effect of the Board's ruling is that persons now have a right to apply for bail, but not a right to be granted bail. You have the right to apply to the judge, and you must now satisfy the judge. If we, in our legitimate, proper exercise of our legislative authority today, pass this Bill into law, you have the right to apply for bail, but the judge will determine on the particular facts and circumstances of your case as an applicant, whether you have an entitlement to be granted that bail or not.

Mr. President, in preparation for presenting this Bill before this House today, I asked the Law Reform Commission, a very resourceful part of the Office of the Attorney General and Ministry of Legal Affairs, to consider and advise upon the specific issues and any other pertinent issues to the reform of the Bail Act. The commission did a number of things: One, they examined the bail legislation in other Commonwealth countries to take guidance from those other jurisdictions, including England, Australia, Canada, South Africa and New Zealand.

Secondly, they gave due consideration to the constitutional rights and freedoms of an accused under sections 4 and 5 of our Constitution, and to the relevant jurisprudence which provides guidelines on how those rights are to be treated and respected.

Thirdly, they considered recent legislative developments, which have had significant impact on the granting of bail, particularly in relation to the offence of murder and other serious offences.

Fourthly, they considered the crime situation in Trinidad and Tobago, particularly the commission of serious offences, including murder, gang and firearm-related offences within the last five years. In consequence, Mr. President, the commission recommended that the Bail Act be amended, one, to give to

Masters of the Supreme Court the jurisdiction to grant bail for the offence of murder, where before, Masters had no such jurisdiction.

Two, to provide that a person charged with the offence of murder may be granted bail if he can show that there exist exceptional circumstances why she or he may be granted bail. This assists and gives supports and guidelines for exercise of judicial discretion, applying the principles of Akili Charles, recommending that instead of the absolute ban imposed by the legislation of 1994, Parliament could have imposed conditions on the exercise of the court's discretion. I have already dealt with that.

Thirdly, they recommend the repeal Part II to the First Schedule of the Bail Act and to substitute a new Part II, setting out the serious offences, which will attract enhanced bail restrictions.

Fourthly, they require a judge or Master, and this is important, Mr. President. The recommendations of the Law Reform Commission were to require by parliamentary provision, which we will pass today—it is my hope—require a judge or Master to give to the accused and the prosecution reasons for their decision to grant or refuse bail, or to impose conditions on that bail in criminal proceedings originating in the High Court.

There can no more be a transparent, fair process for anyone if a decision is made affecting your rights, to be told, “These are the reasons why I have arrived at this decision,” because it gives you the opportunity on the existing and undoubted right of appeal—which is the fifth recommendation of the Law Reform Commission. It gives you, as the accused person applying for bail and having had your bail refused—you have the reasons, you can go to the Court of Appeal and could point to one or more of the reasons to say, “That reason is erroneous in point of law or erroneous in point of fact, in relation to me, the person who made the

application.” That is what is known as due process and the protection of the law.

So the recommendations of the Law Reform Commission, to me, put forward now in the Bill before this House, provide reasons, judges and Masters, and give to accused and the prosecution the right to go to the Court of Appeal to challenge that decision.

The sixth recommendation of the Law Reform Commission, Mr. President, was to introduce enhanced bail restrictions guiding that judicial discretion with respect to persons charged with specified serious offences, or where a firearm, or prohibited weapon, or an imitation firearm was used or in the possession of the accused or any other person involved in commission of the offence.

Mr. President, consideration has also been given to the following recent developments, which have had significant impact on the granting of bail, particularly in relation to the offence of murder and other serious offences. The commission took note of the fact that there have been a number of different attempts in this country to pass bail legislation, which have expired either by effluxion of time or by the arrival of the sunset clause. All of that was considered in the round as they sat to the task of making recommendations, which recommendations were then taken to the Chief Parliamentary Counsel, who has the responsibility in the Office of the Attorney General and the Ministry of Legal Affairs for the drafting of legislation. Therefore, Mr. President, we have a situation now by which we have come to this Parliament, with the Bill before the Parliament.

One of the matters that the Law Reform Commission addressed was the tangible concern that under the current bail regime, there is the real likelihood that repeat offenders of serious offences will continue to obtain bail unless we, the parliamentarians, do something about that. The work of the commission, Mr.

President, interrogated and took into consideration, by research and policy advice to me, as the Attorney General, the high levels of crime in Trinidad and Tobago, particularly the commission of serious crimes, serious offences, including murder, gang and firearm-related offences within the last five years. They provided me with statistics that I provided to the draftpersons for the drafting of the Bill, which is now before this House.

So for the period 2019 to 2024, Mr. President, the statistics, which were obtained from our various law enforcement and national security arms of the State, tell us that the Trinidad and Tobago Police Service has identified 772 persons as being repeat offenders. Data provided by the Commission of Prisons tell us that out of a total of 2,261 convicted male offenders in 2019, there were 1,110 repeat offenders, which represented 49 per cent of the total of all male convictions in that period. In the following two years, that is to say, in the heart of the pandemic, there was an average decrease of male convicted repeat offenders by 10 per cent. Thank God for the pandemic, if one could ever say that.

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Armour SC: But towards the end of the pandemic, in 2022, there was an increase of immediately 5 per cent, that is to say, 451 instances of repeat offenders out of 1,366. In 2023, the percentage of reoffenders had surged from the 5 per cent in 2022, to 52 per cent, that is to say, 1,076 out of 2,070 convictions.

In the period 2022 to 2023, the year just preceding the year in which, by the grace of the Lord we now live, that is to say 2022 to 2023, there was 139 per cent increase of convicted male reoffenders. The data also reflects a steady increase in the number of male convictions for firearms and dangerous drug offences following the COVID-19 pandemic. This Government is, therefore, of the view

that it is necessary, it is imperative for Parliament to intervene to introduce conditions to guide the exercise of the court's discretion to grant bail to persons charged with serious offences, including murder, by requiring such persons to show sufficient cause or that exceptional circumstances exist to justify granting bail to them, particularly in the face of a continuing percentage increase in recidivism, that is to say, the ability of offenders to repeat their offences once they are back out on bail.

So the Bail (Amdt.) Bill, 2024, which is before this august Chamber, Mr. President, that Bill contains nine clauses and requires a three-fifths majority vote pursuant to section 13(2) of the Constitution because, acceptably, some of the proposed measures introduce restriction on a person's right to reasonable bail. What does that mean? What does a three-fifths majority vote mean? It does not mean, as I have heard to my dismay many times in this Parliament when the United National Congress Opposition comes to speak with it, that because a Bill requires a three-fifths majority, that by itself is a reason to vote against the Bill. The requirement for three-fifths majority is not a reason to say, "Because it requires a three-fifths majority I am voting against it." What it means is that we must look at the data and the facts, which I have presented in this case or are presented otherwise before the Parliament to show the threat that exists, the dangers that exist, the public interest that must be served and the measures which this Parliament can take to intervene to introduce controls—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC:—to save the society, innocent men and women, young girls coming from school, young women going to work, many of whom work on shift and are coming from work at night or going to work at night, to save them from scourge of repeat offenders—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC:—that 139 per cent increase in one year, the period 2022 to 2023. So when the Opposition comes today to vote, they must reflect on that. Are they here to protect young, innocent people, the elderly and the infirmed and the other citizens of this country from a preventable scourge of crime, or will they throw their hands up and say, “We are not voting for it because it requires a three-fifths majority.” Nonsense! Baloney!

Hon. Senators: [*Desk thumping*]

2.50 p.m.

Sen. The Hon. R. Amour SC: The purpose of this Bill, Mr. President, is to amend the Bail Act, to make provision for the restriction of bail to persons charged with serious offenses. To provide guidelines—not to deny bail—for the judges of our country to determine when an application is before them, whether the applicant has shown good sufficient cause or exceptional circumstances, while applicant ought, in the discretion of the judge, a discretion that existed that the Privy Council has determined since 1898, to determine whether that bail should be granted.

“The Bill also seeks to...conditions...the exercise of the Court’s discretion in granting bail to persons charged with the offence of murder, serious offences listed in Part II...and firearm...offence.”

If one can just give an example, of the serious offences listed in Part II. Serious Offences specified in Part II, just so that we do not have words that can be passed on as if they mean nothing.

“(a) an offence committed by a person over the age of eighteen years under the Anti-Gang Act, 2021, which is punishable by imprisonment for ten years or more;

(b) an offence under the Offences Against the Person Act which is

punishable by imprisonment for ten years or more, or an offence under section 48 or 54 of that Act;

- (c) an offence under the Dangerous Drugs Act which is punishable by imprisonment for ten years or more;
- (d) an offence under the Kidnapping Act which is punishable by imprisonment for ten years or more;
- (e) sexual offence under the Sexual Offences Act or the Children Act in which the alleged victim is a child;”

So when we come to vote today let us reflect on that. Let the public reflect on that, as they judge how this boat goes.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: The capacity of a judge with proper guidelines where the person before her or him is for bail to show good sufficient reason exceptional circumstances, why? They should be allowed back out to continue to rape children, that is what this Bill is about.

- “(f) an offence under the Sexual Offences Act which is punishable by imprisonment for ten years or more;
- (g) an offence under the Anti-Terrorism Act which is punishable by imprisonment for ten years or more;”
- h) an offence under the Trafficking in Persons Act which is punishable by imprisonment for ten years or more;”

—trafficking in children. Those are the offences that are being committed in this society, Mr. President, and:

- “(i) an offence under the Firearms Act which is punishable by imprisonment for ten years or more.”

So when we go to look at the Bill, and we look at the term “serious

offences” these are the offences that we are talking about. So it is murder, serious offences, and firearms offences.

Sen. Lutchmedial-Ramdial: [*Inaudible*] we will not agree to this.

Sen. The Hon. R. Armour: “The Bill seeks to impose...reversal of burden on persons charged with the offence of murder and firearm related offences to require...persons to show exceptional circumstance...”

—or sufficient cause to persuade the judge to justify granting them bail to be released back into society, while they await trial.

Mr. President, the case that was cited by the Akili Charles decision, which I referred to earlier, is actually a Trinidad and Tobago case. It is not an occasion of what occurred here, but they used it as an example. It is the case of *Boodram v The Attorney General of Trinidad and Tobago* determined in the Privy Council and at paragraph 30 of Boodram, this is what the Privy Council said in relation to the crime of murder:

“The crime of murder is, of course, always very serious; but some murders are even more serious than others. The circumstances of murder cases vary across a wide range, from the terrorist who aims to overthrow a state by killing as many of its citizens as possible to the devoted partner who commits a “mercy killing” in order to end the unbearable pain suffered by a loved one who is terminally ill.”

That was the example given by the Privy Council, when they ruled as Akili Charles did, that a blanket approach to bail was unconstitutional, because you have weigh the difference circumstances into account.

The Bill also seeks to provide a provision for a review of the Act to be conducted every five years after its commencement. Finally, the Bill seeks to provide that bail granted to an accused under section 5 of the Act proposed to be

deleted and substituted by a new subsection (5) will continue to apply after this amending Act comes into operation.

Clause by clause, 1 to 3 speaks to preliminary matters. We remind ourselves of the *The Queen v Spilsbury*, (*dictum*), that the Judicial discretion has existed since 1898. The new subsection (5) which will firstly accept that a magistrate will continue to have jurisdiction to grant bail for summary offences. Secondly, will grant to a judge and Master the express jurisdiction to grant bail to a person charged for murder in those exceptional circumstances or sufficient cause. Thirdly, offences listed in Part I of the first Schedule will continue to be non-bailable offences, so murder is removed from Part I, but the offences of treason and piracy remain, those remain non-bailable offences. Fourthly, a judge and Master will have the jurisdiction to grant bail for indictable offences except those listed in Part I of the first Schedule. And Fifthly, as seen in the proposed section:

“(3) A Judge or Master may not grant bail to a person who on or after...the Bail...is charged with an offence...Part II...”—

—that is your serious offences carrying imprisonment for 10 years more and he:

“(a) a previous conviction for an offence punishable with...ten years or more...

(b) a pending charge for an offence listed in that Part,

“unless he can show sufficient cause...”—

—or exceptional circumstances.

And in relation to that exercise of discretion, Mr. President, the judge’s ancient discretion is preserved. I could continue at length. I have looked at a number of different jurisdictions. In India, for instance, section 35 of The Narcotic

Drugs and Psychotropic Substances—

Mr. President: Attorney General you have five more minutes.

Sen. The Hon. R. Armour SC:—thank you very much, Mr. President. I am not going to dwell at length on all of the particular cases which we have looked at, which I had the benefit and the opportunity from the Law Reform Commission to look at the jurisdictions, and the judicial decisions coming out of those jurisdictions. I have presented the relevant data to support the restriction on bail for persons charged with serious offences, and in particular data in relation to repeat offences.

Mr. President, I have advised the Government that the proposed measures, although they will amount to an infringement of the rights to bail, are proportionate and in pursuit of a legitimate aim. That is to say, to explain the rationale behind the clauses to the Bill. One, to give effect to ruling in Akili Charles. Two, to give to Masters the jurisdiction, to grant bail for the offence of murder, a jurisdiction which they did not have at common law and is being created by statute. Three, to provide that right of appeal for the accused or the prosecution, against the decision of a judge or Master, to grant or refuse bail. Four, to impose conditions on the exercise of the courts discretion. And five, to impose an enhanced burden on persons charged with serious offences to justify the granting of bail.

3.00 p.m.

In conclusion, Mr. President, this Government recognizes that the proposed restrictions do impact fundamental rights and freedoms, but we believe that they are crucial to serve the public's interest and that is in particular to reduce the likelihood of repeat offenders, particularly seasoned criminals, from obtaining bail. We believe that the legitimate aim cannot be disputed of protecting the citizenry from crime. The legitimate aim is to keep our citizens safe. It is as simple as that.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: And, the proportionality introduced in the Bill before this House, that is to say, to reserve to the judges the discretion on a case made out to them appropriately by the accused who is applying for bail who can show sufficient cause or justifiable circumstances to an exceptional degree for them to be granted bail. Those are reasonable, balanced considerations, legitimate for the judges to consider, and in the circumstances we believe that the Bill before this House is constitutionally compliant, albeit with the restrictions, if passed by a three-fifths majority, and in begging to move, Mr. President, I call on the Opposition to do the responsible thing. 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. Mr. President, in my present condition I do not want to get too much into what the Attorney General has stood here today, where he has tried to shamelessly ignore the history of what transpired in this Senate.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: Because it is appalling, it is actually embarrassing, to sit here and listen to the Attorney General. Because, Mr. President, I have to remind, if not people in here who may have forgotten, I have to remind the country that last year around this time, I think it was the last sitting of our term last year, that the Opposition came to this Parliament, asked for Members of the Independent Bench to support us in voting against a Bill which removed all judicial discretion for the granting of bail.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: Their memories are short.

Sen. J. Lutchmedial-Ramdial: Memories—no, conveniently short. Memory is conveniently short on that side. They want to stand here today. The only person talking baloney here today is the Attorney General.

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

Sen. J. Lutchmedial-Ramdial: The Government has come here today with a Bill that we forced them to go and do and bring.

Hon. Senator: Without “ketch” up.

Hon. Senators: [*Desk thumping*]

Sen. Nakhid: After they lost.

Sen. Dr. Gopeesingh: We stood up here last year and said, it was a violation of the separation of powers for Parliament to remove altogether that discretion to grant bail. We stood here and called for that. We did, the six of us alone.

Sen. Nakhid: Keep going, keep going, keep going.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: The six of us here stood here and stood up for that, because you know something, the UNC stands in defence of the Constitution and the rule of law.

Sen. Nakhid: Yeah.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And the Attorney General has the audacity to say that there are some people who only believe that the Privy Council judges, and in their decisions and so on and so forth. We won the Akili Charles matter in the Court of Appeal and you appealed the decision of our local judges to the Privy Council.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: Bring it home.

Sen. J. Lutchmedial-Ramdial: Our local judges said—

Sen. Nakhid: Educate them sister, educate them.

Sen. J. Lutchmedial-Ramdial:—who is me, me, me—

Hon. Senators: [*Interruption*]

Mr. President: Okay. Okay. Members! Sen. Lyder. I cannot hear Sen. Lutchmedial-Ramdial at all. As much as you may want to support your colleague you cannot be louder than her. Senator, continue.

Sen. J. Lutchmedial-Ramdial: Thank you, Mr. President. Mr. President, I know my colleagues are equally as outraged as I am to have to sit here and listen to this.

Sen. Nakhid: Outraged. Outraged.

Sen. J. Lutchmedial-Ramdial: We cannot sit down here and listen to this. I “cyah” sit down and listen to people so shamelessly ignore facts.

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

Sen. Lyder: Shameless. Shameless.

Sen. J. Lutchmedial-Ramdial: The facts, Mr. President, facts that since 2020 when the Akili Charles matter was filed in the High Court of Trinidad and Tobago the issue of judicial discretion in the grant of bail was at the forefront of discussion and ought to have been at the forefront of the discussion. What was the response of the Government in 2020 when we were going before the High Court? The Prime Minister mounted a political platform, “call up all ah we name”, mine included, and said, no bail for murder must remain the law in this country, commenting on a case that was before the judge and that the judge was awaiting to hear and decide on.

Sen. Lyder: Breach.

Sen. J. Lutchmedial-Ramdial: Breach, total disregard for the issue of sub judice. We went before the Court of Appeal, the Court of Appeal ruled, and let me quote:

“Our unanimous view is that, while a breach of the doctrine of separation of powers is not a ‘stand-alone’ reason for striking down a statute, it is a central consideration in determining whether an impugned statute is outside the umbrella of protection offered by section 13...

“The unanimous view of this panel”—unanimous view of this panel—“is that, by removing the jurisdiction of High Court judges to grant bail to persons charged with murder, section 5 has trespassed on a core judicial function”.

Hon. Senators: [*Desk thumping*]

Sen. Nakhid: Teach him, teach him, teach him. Educate—[*Inaudible*]

Sen. J. Lutchmedial-Ramdial: This was—what was the date of this? February the 17th, 2020. And you talk about the Law Association. The Law Association supported us in this matter. They agreed with that, and that was a novel situation for Trinidad and Tobago. The Law Association agreed with the attorneys representing Akili Charles, and said that, you know, that it was a violation of separation of powers.

Sen. Lyder: Who was the AG then?

Sen. J. Lutchmedial-Ramdial: But the Attorney General, did he accept the view of our local judges that we hold in such very high esteem? I hold them in high esteem. No, he took it to the Privy Council, and now, having been told by the Privy Council in a nutshell, the UNC was right—

Hon. Senators: “Ah, ha, ha”.

Sen. J. Lutchmedial-Ramdial: The UNC was right, because when we voted here last year on the Bail Bill that they then brought, when we voted on that Bill last

year, the Akili Charles decision was outstanding, and it came not too long after that, and I remember saying, that decision vindicated the position that the Opposition took here last year.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: Mr. President, I do not know who they are trying to fool, but they were so outraged by all of this, and I should know because we did them a favour. For one entire year they have used the Opposition as the scapegoat for their failure to deal with crime in this country. Every time they are confronted with the issue of crime, it is, “the Opposition doh support us, you know. The Opposition doh support us on bail”. Well I want to see who you are going to blame after today, when the Opposition—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—has now forced you, forced you, you take a whole year, you could have done this since 2020 when the Akili Charles claim was filed, but we have forced you to come here with a proper piece of legislation that respects the rule of law, that does not violate the separation of powers, that has built in to it sufficient safeguards and so on, and does not remove judicial discretion. But they land here today expecting like everybody else land from Mars like them and forget their record, and suddenly talking about, what, proper respect for judicial discretion. If you had proper respect for judicial discretion you would not have brought that Bill here last year.

Hon. Senator: And Independents—[*Inaudible*]

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And it is the Opposition, having proper respect for judicial discretion, told you no. We told you no and we forced you to come back here today.

Sen. Nakhid: Forced you.

Sen. J. Lutchmedial-Ramdial: Suddenly you have proper respect for judicial discretion. Had it not been for the people who took that Akili Charles matter all the way to the Privy Council—and I am proud to say I was associated with that matter—you still would not have proper respect for judicial discretion.

So, Mr. President, let me just start by saying something, it is a very difficult thing to stand up for what is right in this country. It is a very difficult thing to have courage to go against the grain of public opinion. It is a very difficult thing to challenge the status quo, but I will tell you something, there are two people in my life that have given me the courage to do those things: One, is the hon. Kamla Persad-Bissessar SC—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—who, last year, I remember very, very—I will never forget when we were discussing that Bail Bill and I told her all of the arguments, and of course we went through all of the political backlash that we would face this one, had two words for me, “go brave”. Go brave and stand up for what you know to be right, and that is what we did in this House last year.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And, the second person who I will pay tribute to, because nobody else will, but who I know is the reason why we are here today, is Mr. Anand Ramlogan SC.

Sen. Nakhid: “Aaah”.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: Because if Anand Ramlogan SC did not take it upon—and Akili Charles was not the first bail matter that we did. We did Ryan Reno Mahabir, we did Justin Stewart Charles.

Sen. Nakhid: Yes, teach them.

Sen. J. Lutchmedial-Ramdial: Let me pay tribute to somebody who stood with us in that matter when we were challenging section 5, and that was Mr.—

Hon. Senators: [*Interruption*]

Mr. President: Sen. Lyder, Sen. Roberts. Poor Sen. Lutchmedial-Ramdial, is trying to shout over you all in order to make her contribution. I do not want to raise to my legs to make her sit and get up, sit and get up. I would love for her to just make her contribution, being on her legs in peace. So, that being said, let us have silence so that the Senator can finish her contribution. Continue Sen. Lutchmedial-Ramdial.

Sen. J. Lutchmedial-Ramdial: Yes. thank you, Mr. President. Mr. President, it is all right, I could shout, I am fired up today, because when you listen to what you have—when you have to sit down for 40 minutes and listen to what I had to listen to yesterday, “de adrenaline pumping. Buh leh we go”.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: “Leh we go. No, all yuh want debate, leh we go”. I was saying I want to pay tribute to somebody who actually was part of that matter, because there were consolidating matters dealing with bail, and that is the Member of Parliament for Port of Spain South, Mr. Keith Scotland SC.

Sen. Nakhid: [*Inaudible*]

Sen. J. Lutchmedial-Ramdial: Because all “dey does” like to quarrel about the Opposition, and the Opposition, and the Opposition, Mr. Scotland joined with us in a matter that also challenged—

Sen. Mitchell: Senior Counsel.

Sen. J. Lutchmedial-Ramdial: Senior Counsel, sorry. I forget, the deserving one.

Sen. Nakhid: Yes, he is the only one deserving.

Sen. J. Lutchmedial-Ramdial: A deserving one.

Sen. Nakhid: The only one.

Sen. J. Lutchmedial-Ramdial: The deserving senior counsel. I had to promise senior counsel and with deserving. The deserving senior counsel in the person of Mr. Scotland, was also part of those matters to challenge. So, when the whole country wants to come down on attorneys and say this about us and that about us and so on, I remember speaking to my senior and telling him, I say, I think you have to be mad with this bail for murder thing, you know. I say, “You know what they are going to do to us?” He says, “No, we are right”. And it is not about what is convenient, it is about what is right.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: It is not about what is easy. It is very easy to sit down here and rubber stamp and pass laws because it sounds good and the public will say, “yeah boi, put all dem criminal in jail. Yeah boi, leh we lock up all ah dem”, right. Everybody is ah criminal, everybody that “de police charge is ah criminal”. Okay, well, you know what?

Sen. Lyder: Until it is your child.

Sen. J. Lutchmedial-Ramdial: Yeah, until, yeah. Until it is your child in the police station and you are getting the Attorney General to call and say, no, no, no, no crime was committed.

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

Sen. J. Lutchmedial-Ramdial: Everybody is ah criminal until then. Right. But anyway, let us go on.

Mr. President, there is no right to bail in the Constitution, and nobody on this side, or anywhere, or anybody in their right mind, has ever said that you have a

right to bail. What you have a right to under our Constitution, is not to be deprived of reasonable bail without just cause. And so what the Bill here today that the Government finally has found—put their tail between their legs last year and took a whole year to bring back, as I said they could have done this since 2020. So all this recidivism they are talking about, and repeat offenders, and children being murdered, and girls being attacked and so on, all that is on you. Because you could have brought a good law for a very long time.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: And the people who have failed in many aspects, not just legislatively but in every aspect of controlling crime in this country, since 2015, is you.

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

Sen. J. Lutchmedial-Ramdial: Right. So do not talk like if the Opposition voted last year on your special majority Bill, that was a bad law, has anything to do with it. Is you that had failed—

Hon. Senators: [*Laughter*]

Sen. J. Lutchmedial-Ramdial:—to control crime in this country, and it is out of control. And nobody will argue on this side that crime is not out of control. It continues to get worse every day that they remain in office. And so we only have one solution that we could propose right now, and we will support good legislation, as we always do, as we have shown. We will support good legislation that does not encroach upon reduction of separation of powers. We will support good legislation that we believe meets the criteria of how the courts have interpreted separation of powers, and what is a core judicial function, and what is an encroachment and so on. No problem, we will do all of that. But the major thing that we will do in order to assist this country in getting rid of this crime situation,

and helping, and alleviating the suffering of citizens, is to get rid of the PNM, because that is the only real solution.

Sen. Nakhid: Time to go.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: That being said, you have a right not to be deprived of reasonable bail without just cause. And what the Bill before us does, it preserves the judicial discretion, and that is all we were asking for last year. That is all we were asking for, you know, preserve the judicial discretion.

3.15 p.m.

It goes into more detail about criteria and it introduced a concept of flipping the burden of proof. So that the judicial officer can—and, Mr. President, I sat here and I listened to all of my arguments from last year being repeated by the Attorney General as though it was something novel and new that he stumbled across.

Sen. Roberts: [*Laughter*]

Sen. Nakhid: The man is a perjurer.

Sen. J. Lutchmedial-Ramdial: I also—yeah. [*Laughter*]

Sen. Nakhid: A perjurer.

Sen. J. Lutchmedial-Ramdial: I listened as well to the arguments and these are the exact submissions that we were making before the court, that there are different facts in every case in the scenario that I remember from the High Court, to the Court of Appeal, to the Privy Council that we used. Does a man who for the first time commits a murder, because he found out that the neighbour or an uncle or somebody was molesting his child. Is he the danger to society that should be denied bail the same way that the gang leader who passed by Harpe Place and shot five or six people? No, it is not the same. Every case should be judged on its own facts. And that is what the Bill here today, finally, the Government, trying to get it

right, has brought before us today. It preserves—

Sen. Lyder: Forcibly.

Sen. J. Lutchmedial-Ramdial: Forcibly, forcibly, they should thank us. They should not be here trying to beat their chests and try to make people forget their track record, they should be thanking us.

Sen. Nakhid: Thank us, thank us.

Sen. Lyder: Save your money.

Mr. President: Sen. Lyder, take a walk, please. Take a walk. You can return when Sen. Lutchmedial-Ramdial has ended her contribution. Continue, Senator.

[Sen. Lyder exits Chamber]

Sen. J. Lutchmedial-Ramdial: Mr. President, so they have come today and they have introduced three scenarios in which a person must convince the judicial officer that there are extenuating circumstances. But it boils down to on the particular facts of their case that they should be granted bail. But it goes beyond that, because—and anybody who practices in court would know this, circumstances change. And circumstances continue to change during the course of a person appearing before a judge or a Master or a magistrate which may warrant the grant of bail. And I will get into some of those examples and show you because there is a lot of outrage, there is a lot of outrage in the country right now when you hear about people getting bail. And in a lot of those cases people do not get bail at first instance but they are later granted bail.

So I did my homework and I made some enquiries into some of those cases, and I will share with this honourable House what are some of the circumstances that led to people charged with serious offences being granted bail. And so we will go through them. And then, Mr. President, I will take my contribution down, of course, although I am tired of saying this, but I think we need to examine at the end

of the day not just why people are granted bail, but why we have such a high rate of recidivism. Because the Attorney General is anchoring his contribution and has anchored his call for support for this Bill on the high rate of recidivism. And the fact of the matter is, is that the Government has failed to adequately put measures in place to address the high rate of recidivism.

Sen. Nakhid: That is true.

Sen. J. Lutchmedial-Ramdial: Recidivism is something rooted in social and economic factors. And if you do not put things in place to address that, well, we are hamsters on a wheel. Because here is what, the reality that all of them need to wake up and realize is that you “cah” keep people locked up in Remand Yard forever. You cannot. And unless you are convicting people, well, first let us start with detection. Unless you are raising your rate of detection and unless you are raising your rate of conviction and unless you are putting proper measures in place to address repeat offences and repeat offenders and get them out of that cycle, we are all hamsters on a wheel waiting until it is our turn to be the victims of crime.

I know out there and their trolls on social media, everybody, they think I, I criminals, I this, I have never seen so much horrific things written about me, even by people related to Members opposite. I have seen it, all on social media. All of it. People related, carrying the same last name as Members who sit opposite me here, I have seen it.

Sen. Roberts: “Doh worry about that, nah.” Ignore that, ignore that.

Sen. J. Lutchmedial-Ramdial: Let me tell you something, you think that I am out of touch with the criminal situation? I have had the closest members of my family held up at gunpoint, held up at gunpoint when I was 16 years old, when I was 21 years old. I was a prosecutor. I sat with victims, seven and eight years old who were filmed being sexually assaulted by their stepfather and watched the

videos with them. I prosecuted people who sodomized women with bamboo in front of their in-laws and their husbands.

Mr. President, I remember—I “doh” forget the cases I am involved in like some people. I remember all of their names and their faces and if it was up to me personally, Jayanti Lutchmedial, I could give you a list now about—

Hon. Senator: Ramdial.

Sen. J. Lutchmedial-Ramdial:—Ramdial—about a hundred people that I wish I could put into that square and open a firing squad on them right now because I do not think that they deserve to live in our society. I am as outraged about crime as anybody in this country. But you see that prayer that we say when we start every session here, putting aside private interest, and affections—

Hon. Senator: “Dey cyah” do that.

Sen. J. Lutchmedial-Ramdial: We are not here—and prejudices. We are not here to legislate based on emotion. We are here to legislate on—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—what falls within the ambit of the rule of law and what is best for society. Because you know what, I could also tell you that I have prosecuted people, I have stood up and I have done bail applications, where I have opposed bail for people accused of rape. Young men who remained in jail because there was an allegation that they were threatening and interfering with witnesses and all of that, all of that, underage person, the victim was underage. I heard the Attorney General talking about a child, raping a child. Yes, a child is under 18.

So, when you have a 15 or a 16-year-old saying that this man raped me and he is threatening me and so on, you fight, you fight, you fight, tooth and nail to keep that person in jail, only to realize that the girl was lying because she did not want her family to know that she had a boyfriend somewhere that she was

engaging in sexual activity with and she pinned it on somebody who had given her a drop home when they found out. I carry that around too, just like I carry around what I did and I kept that person in jail for years. I argued for it.

So, Mr. President, when I stand here today and I say that I support judicial discretion, I support that every—I have confidence, they did not have the confidence last year, I have confidence in our judicial officers that they can assess circumstances and make the right decision. And that is all the UNC has ever asked them to do when it comes to the matter of bail and they finally seem to have gotten it correct. So for serious offences, firearm offences and the offence of murder, that is what is dealt with in section 5, where the discretion can be exercised by a judicial officer and the person who is before that judicial officer has the opportunity to now come and present the circumstances of his case.

After 180 days, it used to be 120 days without the case starting, they have increased it to 180 days, when we should be moving backwards in terms of the time it takes to start a trial, we are moving forward. And I mean, I really do not—but I understand the state that the justice system is in, I know that the 120-day limit sometimes poses a challenge for the prosecution and the police in order to get things started and to get their case files prepared and to start a matter, and so it has been increased to 180 days.

I do not necessarily like it, but I would not oppose it. Because like I say, I would have felt very happy with all the chest beating and trumpets blowing and all of that on the part of the Government, I would have expected to see from 120 to be moved down to 90, but instead we are moving up now and giving it more time where a person can be held on remand and their case not start and given an opportunity for them to be kept. That is, well, you know, we work with what we have, and unfortunately we do not have much to work with, with this Government.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: New section 5(6), it includes a provision that when you are calculating and looking at previous convictions you only look at things that have occurred within the last 10 years. That is a safeguard to ensure that a person is not denied bail unreasonably because you are looking at one offence that may have occurred 20 years ago or beyond that 10-year scope and so on.

But, Mr. President, and a point I would want to make here again today, because again, this is nothing very so novel that, you know, the Government will try to make it out to be. Because—and part of the argument in Akili Charles and all the others, Justin Stuart Charles, all of them, are matters that we did about the judicial discretion. It has been and has always been, I think since 2005 amendments to the Bail Act, to the 1994 Act, there has been a provision which lists all of the criteria that a judge should consider when they are granting bail. And that is section 6(2) of the Bail Act. And that provision specifically has been in existence for decades.

So, at the end of the day, saying that, you know, you only take into account previous convictions of this amount of time and all of that thing, it is a guide that the judge could now use, but it does not change the law. Because on every occasion and anybody who has ever done a bail application should know that what a judge asks or a magistrate asks when somebody comes before them and asks for bail, whether it is a murder, well, now it is murder, but before if it was manslaughter, if it was any type of serious offence, firearms, et cetera, et cetera, you enquire what are the antecedents of the accused. First question out of the mouth of a judicial officer. What are the accused antecedents? What is the status of the victim in the matter? Is he still hospitalized? If it on the first hearing and so

on, you usually get an update on the state of the victim. If there is a physical injury and so on, you want to know what has happened to the victim.

The police have an opportunity to make presentation to the court about any evidence and any allegation about threats being made to witnesses. And so, that section 6(2) stipulates already in the law about the conditions and the conditions that you must take into account in granting bail and they include whether or not there is a likelihood the person might fail to surrender, whether there is a likelihood that the person will commit an offence whilst out on bail, recidivism. You can look at a person's track record and if you see that every time they get bail or they have gotten bail once or twice before and they are now before the courts again, the judicial officer could refuse their bail. And that happens every day in courts throughout the length and breadth of Trinidad and Tobago.

So this, all of this novelty that they think that they have suddenly stumbled across has been in existence for a very long time. Interfering with witnesses, if he has absconded. If you have previously absconded on bail that is a serious consideration that will work against you when you come before the court to now ask for bail again. If it is that the allegation is that you were out on bail and you are now back before the courts and you have reoffended, they must consider that.

I remember there was a time when former President then, Justice Anthony Carmona had started on his own volition, a very good initiative in San Fernando, every Thursday morning we used to do bail. And he insisted that before granting bail, particularly to young men, because of the high rate of recidivism amongst young men, that he was sending everybody for a probation officer's report. And until that probation report came back and he was satisfied he was not granting bail. And he was also not granting bail until you had a parent who you were going to live with, come before the court and he went through that report with them. Now,

it was long, it was painstaking, people had to come and go, ride that prison truck three or four times, wait until the report came before him and so on. He came up with that on his own. And he was looking at those things because he was considering these factors. And I commend him for that because I thought it was quite good. In many cases he denied bail because of what the probation officers reported.

The probation officers, and if you go to the Children Court now, they have more staff who deal with—like social workers and stuff, who deal with children. And when you read those reports you realize why some people are denied bail and you ask the court to deny them bail. But, there will always be a case where someone might be entitled and we have to, as lawmakers make provision for those people. So we have seen the light a long time ago about that and it looks like my friends have now seen the light. We have had to drag them there, kicking and screaming, but I think they have seen the light.

Now, they also seem to have seen the light when this Bill was debated in the other place because they took on board some very good suggestions coming from the Opposition and others and they have made some amendments. They have defined the standard by which the exceptional circumstances, where the judge has to be convinced and they have included it to be the balance of probabilities. I believe that to be the correct position. That is how a magistrate or a judge or a Master ought to exercise that discretion.

Mr. President, as I said before, the two questions, burning questions coming out of all of this, now that we have agreed that this Bill can pass the test of scrutiny in terms of its compliance with the rule of law and not being an encroachment on the separation of powers. The next thing that we really have to examine as a Parliament is, why do we have such a high rate of recidivism and why are people

getting bail? I will start with the latter one first.

I, like many other people in this country, read the newspapers every day and hear about people getting bail and wonder, well, why. Because those reasons are not included in the newspaper reports, right. And I see they have included a paragraph here from the Law Commission. Law Commission, they do brilliant work. I commend them too, that they have included it on the recommendation from the Law Commission for the provision of reasons, that is good. Because maybe the reasons why somebody is granted bail, if they are documented or ought to be published in the newspaper as well. Because people have a sense of outrage towards even judicial officers for granting bail now.

3.30 p.m.

I made some enquiries about one—I do not want to get into the facts, but it is a murder. Persons who were charged were not granted bail initially and then eventually, I saw they all get bail. I know the defence attorney. I know the prosecutor in the matter. I made some calls. I wanted to find out why, how. Because it was a well-publicized case, quite egregious matter and so on, and these people are out on bail. What would have possessed a Master or a judge—I think it was judge actually of the High Court—to grant these people bail? But you know what happened? You know what are the reasons? You know how they were able to satisfy a judge that they should be entitled to bail, even without this, so on, and so forth? I want them to listen very carefully because these reasons will be used as the exceptional circumstances for people to continue to apply for bail.

A year after being charged for the murder, a file had not yet been sent to the DPP's Office for a prosecutor to be assigned. The police had not complied with three separate orders for disclosure. The police had directions to file witness statements on three separate occasions. They had not complied with the directions

of the court to progress the matter. The firearm that was allegedly used in the commission of the offence had not yet been processed. There was no forensic record a year later and the firearm was a key issue in the case. So what does the judicial officer do? They grant bail. The failure or the reason people are getting bail is not Jayanti's fault, it is not Kamla's fault, it is not Anand's fault, it is not the UNC's fault. It is a failure of various institutions of the State, and unless you address those things, you are not going to have this automatic or this high level of bail denial that you seem so thirsty for.

So if you want magistrates, and judges, and Masters to deny people bail, then you have to give them the material. I will go back again. I remember a man once getting bail for an sexual offence that I was prosecuting and you know when was the only time—and he had prior charges, pending charges for robbery offences, and this rape allegedly occurred in the course of a robbery. So it was not like they knew each other or anything like that. It was strangers, between himself and the victim. The only time I was able to get his bail revoked is you know what?—that was one of the few cases I did at that time. We talking about more than 10 years ago—was because I came to the court and I showed them a DNA analysis that had gone to Jamaica and come back, proving that that person was a 99 per cent match for the semen found in the victim and that was the end of that. That person never saw the light of day again. He is still in jail today because I had in my possession the type of information needed to convince a judicial officer that bail should not be granted.

So until we get forensics right, until we get CCTV footage right—when you have good CCTV footage and so on that you can use to support your case and your claim as a prosecutor, as a police officer, that this person I have before you here, who might have to wait five years, and six years, or 10 years for their day in court,

but I have the evidence linking them to this crime, Mr. President, I do not put my head on a block for many people, but I could put my head on a block for many of our judicial officers, that they would be very hesitant to grant bail in circumstances like that because you give the tools that they need, and the Government has to give the prosecution and the police the tools that they need to be able to stand up in court and make proper bail applications.

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial: The court does not just come out of—the judicial officer does not walk outside of their chamber every Monday morning and say, “Okay, bail for you, bail for you, bail for you, bail for you, bail for you,” it is a process, and the participants in the process have to have the tools that they need.

So until we have working, functional CCTV cameras that can pick up crimes whilst they are happening, that can pick up licence plates that could help the police to solve matters faster, that could convince a judicial officer that there is a high likelihood that this person is, in fact, guilty and that the correct culprit is before the court, they would not mind keeping you in jail for 120 days, a year, two years, four years, even if it is five years that you remain in Remand Yard because the justice system, we have a backlog to deal with and you have to wait your turn, because you feel fairly certain that that is the person. When you have DNA, you feel so.

Since 2018, this Government has announced that they are building a new forensic science centre. On three separate occasions, I have read in the media that they met with the Chinese team, and investors, and so on, and three times I saw them cut the ribbon, shake hands, sign agreements, all kind of thing, and up to now, I do not think a blade of grass has been cut on the piece of land that they identified to build this forensic science centre. Nothing. Nothing. And when I asked a question sometime ago in this Parliament about the amount of samples

awaiting processing at the Forensic Science Centre, you know what they stood up and said? They had about 19,000 in total. But you what the Minister of National Security has been telling us? “Oh, we now have SERU. We now have SERU.”

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

Sen. J. Lutchmedial-Ramdial: Thank you, Mr. President. “We have something called SERU”—and that is something evidence recovery unit up in Cumuto and that, “They are recovering crime.” I sit on the Joint Select Committee on National Security, so I sit down here and I say, “But we have this SERU and they are processing all these things, and how come firearm cases not moving through the court?” And firearm cases are very central to this Bill because it is a big focus—I will leave it for Sen. Dr. Richards to talk about how many firearms are coming in the country because scanners are not working and so on. That is a whole other issue. But they allow all the guns to come in and now they are coming here to say, “Deny everybody bail and nobody should get bail with firearm offences.” Right? Okay. No problem. The firearms are here, thanks to them, and the open borders, and the failures on the port and everything else, but the firearms are here and we have to deal with it.

So what is SERU doing? So I had to ask myself, well, how it is with SERU, and the Minister praising the work of SERU, and how fast these things are being processed and going before the court—I asked the Director of the Forensic Science Centre in the Joint Select Committee. Mr. President, SERU will swab the firearm, if they find it. SERU will try to collect DNA, or fingerprints, or something like that from the firearm, but at the end of the day, after SERU is done with it now, it is still going down to St. James in the Forensic Science Centre for a two-mark examiner to have to sit down, analyze it, prepare the report and then give it to the police, and then police can start the matter in court if they get that. And that is

where the bottleneck is and they have not addressed that. They have not addressed that. I do not even know if they are aware of it because “kill dem dead”, SERU solved the problem of firearms, and it has not, and I asked the Director of Forensic that. I asked him a direct question: Has this cleared the backlog, and has it made your firearms and so on available—your reports available to say, are the two-mark examiners attached to SERU? No, they are not. It is still going down to forensics where they have a shortage of staff.

So, Mr. President, saying that you come here today to pass a Bill that the UNC forced you to bring and trying to, again, make the population forget that you dropped the ball last year and many times before, trying to make everybody forget that you fought vociferously, even against the decision of our local judges at the Court of Appeal, including the Chief Justice, that the bail for murder law was wrong, that you had to leave here last year—

Sen. Nakhid: In defeat.

Sen. J. Lutchmedial-Ramdial:—in defeat, and that you have now come back here, thanks to the UNC, thanks to the bravery of the Opposition—

Hon. Senators: [*Desk thumping*]

Sen. J. Lutchmedial-Ramdial:—to go against public opinion that the Government likes to fuel and mislead with propaganda and so on, and go out on public platform and after, “call up all ah we” name and blame us for everything and so on—like I said, I do not know who they are going to blame after today. I do not know who they are going to blame after today for all of this but let us see after today, how they will deal with all of the issues. Because if they do not want to address the issue, Mr. President, there are other measures, apart from bail as well, that I think they have to address as a Government because it will help the criminal justice system along.

There is a very high cost attached to keeping people on remand; very, very high cost to the taxpayer and, you know, we set up—UNC passed the electronic monitoring law. They have amended it several times and again, today, through my own enquires and through my sitting on the Joint Select Committee on National Security, the court has made 288 requests for persons to be assessed for electronic monitoring, which is an alternative to keeping people in Remand Yard, and only 93 of them have been recommend. Several of the persons who should be working there—there are several vacant positions still today in an Electronic Monitoring Unit.

So unless you are prepared to do what is necessary on the parallel roads towards offender management, then, again, I have to say, you may not find yourself making much progress along the route of managing offenders. I did not get an opportunity—perhaps one of my colleagues will discuss the social and economic problems that lead to recidivism, but I think we all know why that occurs. And so, Mr. President, with those few words, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Dr. Richards

Hon. Senators: [*Desk thumping*]

Sen. Dr. Paul Richards: Thank you, Mr. President, for the opportunity to make a contribution to this Bill, which I think is a vast improvement over the last iteration, which failed to gain the support across the board in the Parliament. One of the main reasons for the presentation of this Bill is really a lot of information that persons on multiple charges, including gun charges and serious charges, are obtaining bail and continuing to commit crimes while on bail, and I think the Government has, in this instance, struck a balance between the absolute denial of the remit of the judicial officer and provided for exceptional circumstances. I think

the balance has been struck between the rights of the accused and the paramount safety of citizens in Trinidad and Tobago, and I think that is commendable.

The Attorney General did make a commitment to bring it back to the Parliament with amendments, and I would like to take time to commend the Attorney General and the Government for doing that.

Hon. Senators: [*Desk thumping*]

Sen. Dr. P. Richards: And I think based on the occurrences in the other place and support across the aisle, and certainly from Sen. Lutchmedial-Ramdial's contribution commending this iteration of the Bill, I think the outcome will be very different to what we saw the last time around because it has upheld the important separation of powers principle and also, the oath we all take to uphold the Constitution and the law.

So I think it very easy for me—I cannot speak for anybody else—to present an eye to this Bill and support it because it strikes a great balance. But, of course, it is one of the measures that is needed in an effort to quell the dangerous levels of crime we see, in particular murder, the recent evolving phenomenon of mass shootings. We have seen three so far, which is another step in the wrong direction, and the suspicion is that many of the people who are perpetrating these crimes are persons who may be out on bail. But bail is not a panacea and I think, in addition to the amendments to this iteration of the Bill, which is, as I said, very commendable, the last time around the Government really failed, to me, to present as convincing an argument as they could have given the level of data that the Government has available to its and resources

And over the time, since that debate, I think in 2022, a lot of questions have been asked in this honourable House and the other place, and information coming out in relation to bail, and I can point your attention, through the Chair, to a

Newsday newspaper article, Wednesday the 21st of February by Marissa Frazer, titled:

“Government reveals crime data for the last five years - 13,800 get bail for serious crimes”

And it is interesting that the question, asked by myself to the Minister of National Security, provided this information, which easily could have been available to the Government at that time to present a forceful argument about what was happening in the country. The Minister of National Security:

“In 2022,”—he said—“2,488 got bail for serious crimes, while 2,996 did in 2021. In 2020, 2202 got bail and 2,098 in 2019, and in 2018, the total of was 1,830. The group of offences with the highest number for 2023 was narcotics offences with 379 getting bail, while the lowest was serious indecency with 12.”

3.45 p.m.

“When it came to violent crime”—it says—“last year...”—which I am presuming is 2020 because the article was written in 2021—“24 were granted bail for murder, 143 for shooting and wounding, and 236 for rape, incest and other sexual offences.”

When this information was presented, I found it shocking information to say the least.

“In addition, in 2023...”

The article goes on to state:

“...the number of people granted bail for kidnapping was 88, kidnapping with ransom...17, burglaries and break-ins...148 and 218 for robberies.”

Again, in 2020:

“...a total of 320 were granted bail on possession of firearms and

ammunition charges and 229 got bail while facing charges for other serious offences.”

There was also bail granted for:

“...fraud offences...general larceny...larceny of motor vehicles, and...larceny - dwelling house.”

So those statistics speak for themselves and bolster the argument because of those, one can only imagine, particularly the ones on gun charges, how many of those are multiple offenders which have not been disaggregated by the information presented by the hon. Minister of National Security.

We also ask how many matters or I also asked:

“...how many matters were awaiting filing of indictment by the Director of Public Prosecutions between 2018-2023.”

And:

“The total”—number—“for that period revealed to be 1,332 by”—the hon.—“Attorney General Reginald Armour SC.”

And of course, given the public discourse on the backlog in the criminal justice system, there were enquiries about whether or not conversations were afoot in terms of the findings and the resolution of those situations.

Minister Hinds also identified that in each of the years from 2018 to 2023:

“...2,053”—persons—“were on remand; 1,985 men and 68 women.”

So it bolstered the case related to the potential for, as Sen. Lutchmedial-Ramdial indicated, high levels of recidivism in the country which some of the information that was received was received by the Joint Select Committee on National Security to be in the vicinity of 65 to 70 per cent which is startling, which means it is signalling a revolving door scenario and also speaks to the issue of whether or not we have an effective restorative justice system in place in Trinidad and Tobago.

Mr. President, through you, the issue is—another article I can point our attention to is in the Trinidad *Guardian*, it does not state a date, titled:

“Judicial...”—officers—“admit country’s crime rate too high

Urge state to find resources to solve issues”

—which Sen. Lutchmedial-Ramdial spoke to. Because while we are—if we are to follow the trend in the other place, the Government hopes to get the support to pass this Bill today, it is not a panacea and there are several other factors and variables involved in ensuring that this redounds to a reduced level of criminality in Trinidad and Tobago dealing with the throughput in the criminal justice system and also on the input end of it, finding the ways to deal with the factors that lead young people into criminality in the first place.

Because as I said before, we cannot continue thinking that pumping money into National Security, the TT Police Service and Prisons is the answer to our crime situation. Because it seems that the production side of criminals, let me put it like that, is outstripping the ability of the country to interdict, intercept and deal with them through the criminal justice system. So we have to be preventive and proactive as opposed to reactionary.

So the article is by Anna-Lisa Paul in the Trinidad *Guardian* and the Judiciary Court Planning Director, Anderson Gordon, told the JSC National Security:

“We have a problem...

The crime rate is too high...matters...”—taking—“longer than we would like to be completed.”

They presented:

“...a comprehensive view of the challenges the Judiciary...faces, Gordon said in addition to the high crime rate, T&T is also facing high domestic

violence rate...”

—which leads to children exposed to that having a higher potential for also being abusive and ending up in harder forms of criminality.

“...a larger than expected criminal caseload at the Children Court; a much lower than desired rate for completion of matters; a large pending criminal caseload; lengthy delays in the courts due to a significant number of adjournments.”

He said:

“...they were working on enhancing delivery and reducing the delays and backlogs.”

On the issue of over incarceration...”—they—“said there are too many people on remand or as part of their sentence.

Appealing for more support services to address this issue...”—Master Christie-Anne—“Morris-Alleyne rubbished public claims that judges were simply opening jail doors and allowing persons accused of murder to access bail and their freedom.”

And Master Morris-Alleyne presented the following statistics to corroborate her answer. She said:

“In May 2022 - 27 matters were listed...only six were granted.”—bail.

“In June 2022 - 87 were listed, three were granted.”—bail.

“In July 2022 - 70 were listed, four were granted.”—bail.

“In August 2022 - 67 were listed, four were granted.”—bail.

“...September 2022 - 65 listed, five...granted.—bail.

“...October 2022 - 38 were listed, two were granted.”—bail.

“...November 2022 - 46 listed, three...granted.”—bail.

“...December 2022 - 53 were listed, five...granted.”—bail.

“...January 2023 - 58 listed, none granted.”—bail.

“...February 2023 - 54 were listed, three granted.”—bail and

“In March 2023 - 61 were listed, three granted.” bail.

So the narrative that judicial officers were just opening the doors and letting people who were accused of murder out on to the streets to continue carnage, by this information, is utter nonsense and it should be stopped.

“In April 2023 - 46 were listed, one granted...”—bail—“and in May 2023 - 26 were listed and none granted.” bail.

So I mean this is incontrovertible data from the court, a Master of the court.

One of the issues that the Judiciary also identified can be seen in a *Newsday* newspaper article:

“Judiciary calls for scientific evidence”—and—“more expertise in policing”
By Ryan Hamilton-Davis dated Saturday, 17th June, 2023, because as Sen. Lutchmedial-Ramdial indicated and the Attorney General in his presentation, the accused has the ability to present to the judicial officer a case for exigent or exceptional circumstances to get that bail. On the other side of that, the police, TT Police Service and the police prosecutors also have a duty to present the most formidable case to the Judiciary and as Master Christie-Anne Morris-Alleyne said and I quote:

“...the quality of evidence is having a significant effect on the outcome of matters before the courts.

When you are coming to negotiate a plea and the evidence that you have is scientific evidence then you are in a better position to negotiate an appropriate plea...”

And she is speaking about plea bargaining here and of course, it extends to whether or not the bail is granted or the case goes through successfully for the prosecution

or not.

“If the evidence that you have is only eyewitness testimony, for want of a better term, it is a bit of a poker game. One of the things that an accused and his lawyers would be thinking about (in that case) would be to hedge his”—or her—“bets.”

She also identified that the shortcomings that the Judiciary was facing was that:

“...the inability of police to keep up with crime; a lack of data-driven processes...insufficient support, prevention and restoration.”

She also went on to say:

“The country’s approach to policing has not advanced as quickly as its crime. It has not been recognised in the police service in its organisational design that in modern policing, people who are called upon or even suited for walking the beat must be involved and play a critical role in crime fighting...”

She also said:

“...from talks with police agencies in different parts of the world it was recognised that the police placed an importance on support from psychologists, criminologists and well-trained scientists for intelligence and evidence gathering.

‘These things are critical,’ she said. There can’t be an adjunct somewhere outside, they have to part and parcel.” of the process.

Morris-Alleyne also shared the numbers of murder cases before the courts which I would have read out before. She also said:

“Since the decision which has made it clear that one can be bailed for murder, it seems...”—that—“in the public domain that...judges have been opening the jail doors...allowing everyone charged with murder to

walk out.”

Well I spoke to that before. And she also indicated that:

“In July the Privy Council determined that people accused of murder could apply to the High Court for bail - which changes the practice denying a murder accused bail that has been ongoing since 1917.”

Mr. President, through you, I would like to also add another dimension to this conversation which also speaks to the quality of evidence going before the courts. One, for police to maintain their case that this accused should not be granted bail or in aiding of the prosecution process in the case. And in a report from an eight-year period of the police shown an approximation of an average of 36 per cent of reported crime led to an actual prosecution and of that 36 per cent, only 5.7 per cent led to convictions. That is a really poor track record. Which means that if only 5.7 per cent in an eight-year period led to convictions, guess what has happened to the person who went to the courts? “They back out.” It may be that they were innocent but it may also be that they had committed the offence and the case was not a great case that was presented to the judicial officers. So a lot of this is not only on the courts and the bail, the option for bail.

One of the other things which I saw, another issue related to the police operations in these cases because the police are critical in these matters and it is listed in the Joint Select Committee National Security Report on the Third Session 2022/2023 Twelfth Parliament on an Inquiry into the Criminal Justice System in Trinidad and Tobago to determine strategies to achieve greater efficiency and effectiveness. I would commit this document and all these documents to Members and I think it is also listed on the Parliament’s website because we do such great work, the Parliament does such great work in these JSCs and I do not know how much of this information or these recommendations actually are taken into

consideration.

So one of the other issues the courts are facing is listed in page 39 of this document titled:

“Non-appearance of Police Complainants in court

The Monitoring and Evaluation Unit of Trinidad and Tobago Police Service Commission Secretariat on behalf of the Police Service Commission continued to monitor the non-appearance of Police Complainants in court and to report on the systems implemented by the Commissioner of Police and progress in the matter.

For the period under review—which is 2016 to 2021—the number of court matters dismissed due to the non-appearance of police complainants continued to decline. “

Good news.

“Interim data from the Police Service showed that 308 court matters were dismissed due to the non-appearance of police complainants—in 2021”.

That is the good news.

Let us go from 2016: 1,345 dismissed; 2017, 1,825, the peak; 2018, 1,627; 2019, 1,726; 2020, clearly some measures were put in place, it went down to 729 and 2021, it was down to 308. All those things over the years that are under consideration here have an impact on criminals ending up back out on the streets.

“...the primary challenge flagged in submissions received by this Committee was the inability of police prosecutors to efficiently and effectively prosecute matters due to insufficient training. The following submissions from the Public Defenders’ Department provide further details:

- Police Prosecutors are not always legally trained and furthermore have very limited prosecutorial training as compared to State Counsel.

As such they often require lengthy and frequent adjournments to research points of law and to seek advice from the DPP's Office and their superiors."

And of course, in many cases, they are coming up against senior counsels.

"Thus, the progress of the matters before the Courts is often stymied in this regard and judicial time set aside to deal with particular matters is wasted."

4:00 p.m.

Police prosecutors are not always properly equipped to deal with vulnerable witnesses, including child witnesses, rape victims, and hostile witnesses, and are often not able to properly utilize hearsay applications under the Evidence Act, Chap. 7:02, for witnesses who cannot be found or who are in fear, et cetera.

This is another layer of the issues facing the courts in this regard. So while, as I said, when I started, I commend the State, the Government, and the Attorney General for the amendments in this Bail Bill because certainly it is much more pilotable and has found favour in the other place, and certainly with me, and will go a long way in balancing the rights of the accused and also the considerations, which are to me the priority of the citizens of Trinidad and Tobago to curtail and reduce persons who are charged with, in some cases, are convicted and back out and continue their errant ways, and continue to create carnage in the society. This is only one measure.

There are a lot of factors that go into whether this measure is successful or not in its overall intention. The overall intention is to reduce crime in Trinidad and Tobago. One of the ways to reduce crime is contained in this Bill in terms of reducing the number of persons who are on multiple charges going back out and creating carnage. But the other factors are equally as important and can only, on

one hand, work to complement this measure or diminish the effectiveness of this measure if they are not working in concert all effectively even.

I want to take off where Sen. Lutchmedial-Ramdial left off and speak to what I consider—and I have spoken about this before. The issue of the input side of crime. Of course, in many other contributions, I would have spoken about the education system and its shortcomings and the fact that we like to look at the high performers and celebrate them, which is fine because they have worked hard, “doh” get me wrong. We are supposed to celebrate people who work hard, but we do not place the kind of emphasis we should be placing on those who are underperforming. I use the word “underperforming” deliberately because underperformance has certain prerequisites or prevailing factors.

While I know we have these student support services of the education Ministry, it is woefully overloaded and under-resourced because of the number of issues that are coming to that agency. So let me just quote quickly two articles. “Shocking state of T&T children”, because that is the next generation of scholars, scientists, productive citizens, or the next generation of criminals depending on how we deal with them, how we raise them and what kind of citizens our education systems, which include the formal and informal education systems, are treating with them. Article by Anna Ramdass of the *Trinidad Express*, dated March 15th, 2019, "shocking state of T&T's children:"

“A red flag was raised yesterday over the hundreds of children coming before the courts as offenders. The judiciary's court executive administrator Master Christie-Anne Morris-Alleyne said it was initially projected that the Children's Court would hear 1500 matters annually, but, shockingly, in just three months” —that— “figure”—had—“already”—at that point reached to—“500.”

Another article, Melissa Maynard, *Trinidad Express*:

“Youths living in cultural violence”

“...Education Minister: crime statistics a cause for concern. Between 2015 and 2019, of the 510 people charged with murder, 62 per cent of them were between the ages of 15 and 29, and 96 per cent of them were male.”

These statistics were quoted by Education Minister Dr. Nyan Gasby-Dolly, to support her point that a high number of young people have committed violent crimes in this country. The same ones who are end up trying to get bail in many cases. She was speaking at:

“...the ministry’z breakfast meeting Education is Good Business at Hilton Trinidad, St. Ann's.

“Gadsby-Dolly noted that crime, which she said is considered a public health issue, is crippling national development...”

I fully agree, because every one of those young people who end up on the wrong side of the criminal justice system could be a productive contributor to the national development, and it is worrying. She cited more recent statistics that underline the unfortunate reality of youth falling into criminal activities:

“And if we look at 2022 more recent statistics, 54 % of all violent crime, including murder, is being committed by youth between the ages of 15 and 29,” —and—“this is our reality. This is where we are.”

So while we do this part of it, we have to look at the failings of the education and other systems that are seemingly not identifying young people with emotional behavioural disorders and, in some instances, deviant behaviour tendencies for many different reasons. It is easy to do like 40 years ago and say, “They just bad.” That is the 40 years ago mind-set. “They just bad.” “They grow up bad.” “The parents bad.” “The grandparents bad.” “They come from a bad area.” “They just

bad seed.”

But the modern thinking that the contemporary thinking that is not it. There are many, many factors that lead those young people to not choosing in many cases, but erring on the side of crime, and we have to start to focus more on that as opposed to just being reactive.

There is an interesting letter to the editor by Mohan Ramcharan in the *Newsday* newspaper, “Crime, poverty, connection”, Tuesday, 11th April, 2023, and I quote the editor—

Mr. President: As much as in treating with this Bail (Amdt.) Act, we would need to veer into the causes of crime which will cause someone to actually request bail, we do not want to veer too much into it because then we end up debating crime itself and the causes thereof. So I just want to caution you to sort of tie it in a little but more to the actual clauses of the Bill.

Sen. Dr. P. Richards: Thank you, Mr. President, I am guided.

One of the ways that we can have less need for persons coming before the courts and having to apply for bail in the first place is to make sure that they do not run the errant road. I am just asking for your indulgence, Mr. President, just a couple points I want to make because I am heading to closing very soon.

The article, and I am going to paraphrase here, not to run off the ruling of the Chair, speaks to important understandings of when people end up in the criminal justice system and asking for bail they do not do that overnight. There is process and a system that either facilitates that or diminishes that, including, of course, social determinants, poverty, education, family structure, peer influence, unemployment, social disorganization, substance abuse, a big issue in Trinidad and Tobago because many of the persons who are repeat offenders, if you do the data search, they are also in many cases high substance abusers; inequality and social

exclusion, cultural factors and mental health issues. In some jurisdictions, that is a big issue.

In conclusion, Mr. President, the holistic long-term solution is not lying more money being spent on national security, more laws, legislation, building more prisons and systems of interdiction, and penalizing of offenders. Yes, society will also have persons who, for one reason or another, start off having incursions with the criminal justice system as youth offenders. We need more comprehensive identification and rehabilitation.

The fact that recidivism rates are so high and people end up before the magistrates, Masters and judges to get bail is because of the failure of the restorative and rehabilitative justice systems in our prisons to start with. There needs to be significant investment in psychosocial and emotional behavioural issues from as early as children, teens, and adolescence. The system needs to be ensuring that upcoming generations are raised in a different way. Producing the kind of citizens we need to move the country. Forward.

A lot of emphasis is based on student support services, which is overburdened, but youth are not being identified and remediated in the school system. Literally, there are thousands between primary and secondary schools. I hope that this Bill is one step, and we understand that it is one step and one aspect in what is a very multidisciplinary and complex approach to dealing with criminality in Trinidad and Tobago. I commend the Attorney General and the Government for bringing this and heeding, not only the cause of the Opposition, but other civil society groups, and bringing this Bill I think it is very commendable that is the kind of law-making that moves the country forward, and I congratulate the Government on that.

Hon. Member: [*Desk thumping*]

Sen. Dr. P. Richards: And if I could just end, Mr. President, on a slight note. Of voicing a bit of concern. While I would come here Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, and Sunday, I have no problem coming here and working.

4.10 p.m.

We swore to uphold our duty to this country and while I am here willingly and I am sure colleagues are here willingly, it is very stressful under the conditions that we are here to exercise—

Hon. Senators: [*Desk thumping*]

Sen. Dr. P. Richards:—due diligence on all the Bills that we are asked to deal with between Tuesday, Wednesday, and today. And I have no problem, I acknowledge that the Government has the right to do this, and we are heading to recess, but I certainly cannot function if I am exhausted. There are no simple Bills to me, every Bill is critical and important, every aspect of the Bill must be scrutinized, and while we are here willingly to do this, it is under duress—not duress that you forced us to be here—but we cannot—I cannot function at the optimal level that I need to function to fulfil my duties to Trinidad and Tobago. So I am asking and I am pleading that this sort of scenario not be allowed to happen again with the greatest of respect. And with these few words, Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister in the Office of the Attorney General.

Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Renuka Sagrarsingh-Sooklal): Mr. President, I thank you most sincerely for the opportunity to join this debate and add my voice, of course, in support of this Bail (Amdt.) Bill, 2024. I want to begin, of course, by commending

the Attorney General for all of the work that he has embarked upon together with the—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagramsingh-Sooklal:—Law Reform Commission to present the Bill in the manner and form at which it appears before the people and more so the Parliament of Trinidad and Tobago. Mr. President, you know, as I begin I would have heard some of the words—of course, I listened, you know, keenly to the contributions by all the previous Members. And, of course, Sen. Richards would have spoken to there being very many reasons why young people turn to a life of crime.

And as I get into the crux of my contribution, Mr. President, there are three major principles that this Government has and continuously builds our fight against crime on. And these three principles, Mr. President, are prevention, detection, and conviction. There are three critical principles, Mr. President, that is at that the core of every policy driven by the People's National Movement and driven by our Government. And once I get into those prevention mechanisms, detection mechanisms, conviction mechanisms, and more so, how does this Bail (Amdt.) Bill find itself assisting us in preventing, detecting, and of course, convictions for crime, I would be able to respond to some of the statements at that stage, at that juncture I would respond. And like to add a little to the submissions made by Sen. Dr. Paul Richards.

Now, I too had the unfortunate situation where I had to sit here and listen to the rant and rave of an Opposition Senator, who, of course, you know she spoke about her condition. But after her contribution—with all due respect, Mr. President—the only condition I saw was a mental one. And I would say that because, Mr. President, this Senator, Sen. Lutchmedial-Ramdial, had the gall to

stand before this Parliament and had the gall to pay tribute to people who she believed were so significant in the failure of the 2022 Bail (Amdt.) Bill. And to this point I have not heard in her tribute that she reminded this nation, and paid a tribute to what happened to Akili Charles just a few days after, Mr. President, that this judgment was given in the Privy Council.

And that is the serious nature—and what happened to Akili Charles to the members of the public? More than two days after a judgment was given by the Privy Council, Akili Charles was gunned down. He was gunned down and killed, and murdered, and slaughtered, Mr. President. Of course, and why I raise that issue, Mr. President, it is because in 2022 we brought the Bail (Amdt.) Bill, it was because as a Government we recognized that a time had come for us to take draconian measures, Mr. President, as draconian as it may seem, in an effort to fight against crime. So in all the Senator's tribute, I am very amazed that in all the tribute and all the ranting, and all the raving, and all the behaviour that she did not remind the public of what happened to that—yes, his name will live on in the dicta and of course, the case that is before the Privy Council. But the reality was, his reality was his detriment.

Sen. Lutchmedial-Ramdial: [*Inaudible*—incompetence—

Sen. The Hon. R. Sagramsingh-Sooklal: And that is—

Hon. Senator: “Who more incompetent than you?”

Mr. President: Continue, Minister.

Sen. The Hon. R. Sagramsingh-Sooklal: Thank you, Mr. President. And that, Mr. President, was the situation in 2022. And it spiralled even more after that, and that is why in 2022 when this Government came with that Bill, it was not because we were inadequate, it was not because of the failure of the Attorney General, it was not because we did not understand what good law is, or law is, but sometimes

there comes a time as policy makers, Mr. President, that we are required to make decisions in the interest of the public.

And that is why our hon. AG always speaks to the position given forward, yes, in Suraj and Surratt, about that public interest position. And, you know, this same Senator stood here, Mr. President, and she spoke at length about thanking Mr. Anand Ramlogan. Well, thank God for my senior, her senior is probably out and could see the light of sun, but I will leave that right there. But she came to this House, Mr. President, and she spoke about Mr. Ramlogan as if he is the protector of the voiceless, but I want to ask the Senator since she spoke about that, how come to this date I have not heard the Senator tell the people of this country about the Children's Community Residences, Foster Care and Nurseries Act which was amended by the same Anand Ramlogan when he was the Attorney General. And I will tell you why I raise that issue, Mr. President.

On the point of recidivism, on the point of why some young people turn to a life of crime, that particular Act which was amended when Anand Ramlogan was the Attorney General of Trinidad and Tobago, the purpose of that Act was to help some of those little boys and girls who are without parents, who do not have a home to go to, whose parents died and they found themselves before the court. That piece of legislation when it was created, of course, it has multiple functions, that piece of legislation was amended by that Attorney General when he was Attorney General, Mr. President. And, Mr. President, as soon as Mr. Ramlogan—and it was amended while he was Attorney General, nothing was put in place to operationalize the law. No structures, the community residences were not built when he was Attorney General, and she came here, the hon. Senator spoke about our oath, and our right, and we want to protect the people of Trinidad and Tobago.

That same Attorney General that Mrs. Lutchmedial-Ramdial spoke about

Sen. The Hon. R. Sagramsingh-Sooklal (cont'd)

had an opportunity when he was the Attorney General, when he amended this foster care law, to put mechanisms and measures in place to ensure that the law was operationalized. And what did he do? Nothing. But you know what he did in 2016, Mr. President? What he did and cases beyond, there is CV2016-043703 *B (By his kin and next of friend K) vs the Children's Authority of Trinidad and Tobago*. Fully well knowing that he did not operationalize the law, fully well knowing that structures were not put in into place to breathe life into this legislation. He ran to the court and he challenged the law knowing of the inefficiencies that already existed in the system because when he was AG he simply did not do it.

Sen. Lezama-Lee Sing: That is not the only one he did before.

Sen. The Hon. R. Sagramsingh-Sooklal: And that is not the only case, Mr. President. I recall, Mr. President, sitting in a courtroom and that same Attorney General was doing a matter. I sat there waiting for my matter to be called, and it was a matter along this same Act. And I heard the judge, the presiding judge, say to the lawyer at that point, "But, counsel, weren't you the Attorney General at the time when this legislation was passed"?

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

Sen. The Hon. R. Sagramsingh-Sooklal: "Wouldn't you know that systems were not put in place to operationalize the law?" I could recall that, Mr. President, and this is why just like the Senator, I am so appalled that they will have the gall to stand before the people of Trinidad and Tobago and make the people of Trinidad and Tobago believe that they genuinely care.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagramsingh-Sooklal: When they had opportunities to make it right, Mr. President, did they do it? They did absolutely nothing. What they did is

that they knew the inefficiencies in the law and then run, CV after CV as Mr. Ramlogan continues to do, and challenge loopholes or lacunas that he knew existed in the law, and when he had an opportunity did not fix it.

Sen. Mark: 46(1).

Mr. President: Okay, so Minister as much as you are responding to statements made by Sen. Lutchmedial-Ramdial in her contribution, again I would ask you to wrap up that point and then come back to Bill.

Sen. The Hon. R. Sagrarsingh-Sooklal: Of course, Mr. President. And I am so guided, and I will move on, Mr. President. The Senator spoke about, you know, pumping her chest again about on the last occasion all they wanted was the removal of judicial discretion. And here based on the dicta coming out of the Akili Charles, we now come before this Parliament to include judicial discretion. And I hear the submissions made by the Senator, but what I also want to remind the public of, Mr. President, in 2022 when the Bail (Amdt.) Bill came before this Parliament, it came with a sunset clause. With an extension—there was a 2020, the defeated Bill had a clause extending the sunset by two years.

So at that stage, at that time when we brought the Bill to this Parliament, at that time when we did not agree at that stage because, of course, we had foreseen where crime would go, where criminality was going. When we did not agree to having this judicial discretion inserted in the law, let us also remember that that law also had a sunset clause. So when we did come to the Parliament back then, Mr. President, and we did ask for the support, as draconian as the law may have seemed at that stage, Mr. President, it was because there was a sunset clause extending that Bill by only two years.

Because we believed that that stage, that two years would have assisted the crime fighting agencies, the Government with policies to put things in place in

order to deal with crime. And certainly, certainly, I would say when that Bill came here it was not because of the inadequacy of our Attorney General, and I want to applaud our Attorney General again—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagrarsingh-Sooklal:—for all the work that he continues to do, Mr. President, in the office of the Attorney General, in fostering and creating law, and balancing law. Because that is what law is about, that is what we are called upon as legislators to do, Mr. President. Sometimes we are called upon to make hard decisions, yes, because sometimes it is only with making those hard decisions we can protect the people that we took that same oath the Senator spoke about, it is only then we could protect those people we took the oath to protect.

So, Mr. President, I just wanted to place that and remind persons, remind the members of the public in particular, about back then when judicial discretion was not included. Remember at that stage there was a two-year sunset. Of course, the Bill that appears before us, Mr. President, it does not include a sunset clause, and therefore coming again from the guidance given by the Akili Charles, the Bill that appears before us includes that judicial discretion. Mr. President, and those were just two of the things or three of the things that I wanted to speak to, coming out of—as I said before—the Member with the condition. Mr. President, as I continue I want to quote from the dicta of a decision given by Justice Ramsumair-Hinds. And Judge is one of those judges in the criminal courts that I have the world of respect for, and Judge said:

“...liberty is the normative position and detention has to be justified by those who would deny a person their human right.”

This is the words of her ladyship, Mr. President, of course in the matter of the bail application of Mikhail Roopchan. And, you know, in that particular

application, her ladyship would have gone through, you know, the facts of what ought to be considered by any court, by any judicial officer in denying, of course, an accused his human rights, which are, of course, the right to freedom, liberty, all of that. And in this position, in this case, Mr. President, of course, would have spoken to the law as it then was, section 6(2) of the Bail Act. And section 6(2) of the Bail Act would have identified for criminal law practitioners—not those who work for a few years in the DPP and purport themselves to be the best criminal lawyer that there is—but for lawyers who actually practice, and actually defended in the criminal court, Mr. President, and very much familiar with the Bail Act, we would know that section 6(2) sets out—it would have set out the parameters, Mr. President, and the factors to be considered by any judicial officer in the grant of bail.

4.25 p.m.

Now, Mr. President, some of those in the old one—this is particularly for the members of the listening and viewing public. In the old law, as we know, Mr. President, there were certain factors before a judicial officer decides to grant or not grant bail, would consider some of those, including, let us say, the failure to surrender to custody, whether the accused would commit an offence while on bail, whether the accused will interfere with witnesses or otherwise, whether or not the accused will obstruct just the whole layer of justice. And, of course, those were some of the factors that would have been alluded to, or that section 6(2), Mr. President, of the Bail Act spoke about.

Now, what is the new position? Certainly, I do not want to belabour the point because the Attorney General, in his piloting, would have gone through at length as to what are the provisions in the clauses of this Bill that appears before us. But very simply put, Mr. President, for bail practitioners, criminal law

practitioners, you would know that once you go before the court and you make your application for bail, it was for the prosecution, of course, to object to the application that is being made. And based on the provisions set out in 6(2) of the old law—of the current law, it was for the prosecution to show, Mr. President, that one of these risks can occur and therefore, encourage the judicial officer not to grant bail.

The current law, Mr. President—Minister Randall Mitchell always speaks to “lawyering up the thing”. To lawyer up the thing a little bit, Mr. President, what we have now, the position as of now, is that, for want of a better word, there is a shifting of the burden. There is a shifting of the burden where now the defence counsel is called upon to make a case for his or her client that appears before the court, identifying, Mr. President—of course, and that is where the concept of exceptional circumstances come into being—circumstances which the court ought to seriously consider before deciding to deny bail for those bailable offences.

Now, as a criminal law practitioner myself, Mr. President, why do I raise what the then was and what the now is, is because there was a sense of discomfort every time—there is a sense of discomfort in me every time I hear about bail and the restriction of bail, because I know what it is to pound the pavement. I know what it is to do bail application after bail application. I know what it is to—in a different incarnation—be the voice of the voiceless.

So, of course, once I hear you are looking at a piece of legislation that speaks to the denial of bail, the first thing comes to my mind is, of course, the rights of the accused. How is it that the rights of this defendant—how are his rights and his liberty, and his human rights in particular, how is it going to be preserved? And more than that, what are the other mechanisms that are in place, whether it is in the Bill that appears before us or in other existing pieces of

legislation, that will protect his rights and will protect him?

And, Mr. President, the exceptional circumstances provision that this Bill speaks to satisfied me, as a criminal defence attorney, that the door to bail and the granting of bail is not, of course, closed to the accused. Previously, I would have briefly explained the practical aspect of where the defence counsel—now the burden being shifted to defence—has an opportunity to present to the court these exceptional circumstances that he or she wishes the judicial officer to consider in making a decision as it relates to bail. So exceptional circumstances satisfied me as, of course, a defence counsel.

Then, further in this Bill, Mr. President, there is also due process through the rights of appeal. So what we have—there are clauses in the Bill, Mr. President, that allow—even if that right to bail or that application for bail is denied, the accused person has a further layer of protection, and the further layer of protection is where, of course, he can now appeal the decision given by the judicial officer. And, Mr. President, of course, that is something that satisfied me, again, as a defence counsel. But there are other existing—and this too is especially because I know there are families of the accused. I know that there are children who are fatherless, sometimes because their fathers are stuck in Remand Yard, many of whom I would have represented with, of course, my seniors, in a previous incarnation.

But I wish to remind those families who are concerned, apart from the provisions in this law, today, Mr. President, we have a judge-alone trial Bill that is currently before an SSC, which intends to expedite matters for that same accused. I am satisfied there is also plea bargaining legislation that exists, that can also assist that accused, and the families of the accused who may be concerned. Because even though there is judicial discretion, there may still be the uneasiness

Sen. The Hon. R. Sagramsingh-Sooklal (cont'd)

of whether or not my loved ones are going to be granted bail. There is the plea bargaining legislation. Do not talk about AJIPA and what AJIPA has done for revolutionizing. Of course, it is in embryonic stages, but do not talk about AJIPA and especially, scheduling orders that are given with AJIPA, which seeks to fast-track and set the time frames in which matters are heard, Mr. President.

Mr. President, and beyond that there is the Public Defenders' Department and to that end, I want to recognize Ms. Hasine Shaikh, who, of course, was honoured by—

Hon. Senator: SC.

Sen. The Hon. R. Sagramsingh-Sooklal:—SC, Senior Counsel Shaikh now, who, of course, leads a battery of young, bright lawyers, public defender lawyers under the Office of the Attorney General and the Ministry of Legal Affairs—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagramsingh-Sooklal:—who serve a critical function as the voice of the voiceless.

So, Mr. President, as I said, one of the major concerns that I would have had—the AG would have done a fantastic job, of course, in piloting, going through the depths of the Bill. But I want to remind the family of the accused, those who believe that their members are there in prison, may still be there for many years, please understand that the exceptional circumstances provision; please understand that, of course, the due process provision with the right to appeal; then I mentioned judge alone, which is at a SSC; plea bargaining; AJIPA; the PDD, all of these, Mr. President—mind you, all of these are pieces of legislation that were passed by this Government—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sagramsingh-Sooklal:—pieces of legislation as structures that

were created by the People's National Movement, which ensures, Mr. President, that while, yes, we try to prevent crime, while we try to detect crime, while we try to convict those who commit crime, that we balance it by ensuring that the voice of the voiceless is heard and that there are measures and mechanisms put into place to even protect them.

And, Mr. President, again, just because of my experience, coming from where I came from, I join to just make this brief contribution, Mr. President, to this debate and I thank you most sincerely for the opportunity.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Nakhid.

Hon. Senators: [*Desk thumping*]

Sen. David Nakhid: In the name of God, the most gracious and especially, merciful. Mr. President, I cannot relate at all to being second best. As a footballer, as an academic, I could never relate to being second best. Thank God. I put that praise—all praises are due to Almighty God.

So when I hear the contribution from “Sen. Cussbud”.

Hon. Senators: [*Laughter and interruption*]

Sen. Roberts: Who is that? But who is that?

Mr. President: Okay, okay. Members, let us not get down into the doldrums and just be respectful all around when we are making our contributions. Sen. Nakhid.

Sen. D. Nakhid: Thank you very much, Mr. President. As I continue, when I hear the contribution from the Hon. Senator, Minister in the Office of the Attorney General and Ministry of Legal Affairs, when I hear her contribution, not only this one, previous ones, I have to, at some point, have a discussion with her to try and comprehend how it feels to be second best. How it feels to be in the shadow of someone like the honourable. Sen. Jayanti Lutchmedial-Ramdial.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: I would like to let her know that it comes from hard work. There is a reason that—coming out of St. Mary’s College, on to American University, on to the professional league, there is a reason that I was number one, and it involves hard work, commitment, sacrifice; never smoked a cigarette in my life, never drank in my life, was always in bed at 10.00, half past 10.00, and not on somebody’s boat in COVID that pretended to be a restaurant. “I was in meh bed”. So I was number one. Three times, MVP of the Caribbean; twice, national player of the year; two times, player in Belgium.

Hon. Senators: [*Desk thumping*]

Mr. D. Nakhid: So I understand what it means to number one. So, I want to tell my colleague, Sen. Jayanti Lutchmedial-Ramdial, take heart, you are number one.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: And I would like to say to the hon. Senator, work hard, do not speak about the condition of your colleague. It is unbecoming in this august Senate. Even I have never cursed in this Senate. I have always had my language restricted to what is worthy of this Senate.

I continue, Mr. President. Mr. President, despite all these personal attacks, there were also some very, I would say indecisive, misleading comments by the hon. Senator about several cases, and I mention *Seepersad v The Attorney General*. The PNM did not build the community residences to implement the good law passed by the hon. AG, Anand Ramlogan. They just did not do it. That is a fact. So here we go with this misleading rhetoric, in emotional hysteria, trying to convince the public of something that just did not occur, and that is typical of the PNM. When they like to talk about, “We pass legislation and we do that,” do they not realize that the public is very well aware right now that you have been in

control of Government for 52 years, and the country is a mess because of you?

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: How do you want to gloss that over and talk about things and about that? We have a stalemate in the Judiciary. We have troubles with the DPP. It is because of you, nobody else.

Hon. Senators: [*Desk thumping*].

Mr. D. Nakhid: People are in Remand Yard for years, it is because of you. I do not understand why you all feel you all could convince people. This is not long time, people are on social media. You see when this Gen Z, you see them watching their phones, that is why they caught everybody unaware. You know, America, everybody thought they were just looking at their phones, this Gen Z, but they were sharing information. And that is what they are doing about you all. They know that the PNM is a waste of time.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: They are coming here with personal attacks and all kind of thing. No, we had enough of that, we not taking it, we not accepting you to attack anybody here. And look, Sen. Hislop.

Sen. Hislop: Point of order, Mr. President.

Mr. President: Have a seat. Hold on, one second. Point of order.

Sen. Hislop: 46(1), Mr. President.

Mr. President: Okay. So the Member is still just a few minutes into his contribution and, of course, he is allowed to create context. Member, as is the case, create your context and get on to the Bill.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Thank you, Mr. President. I think the Senator before went at length to try and not only insult—it was painful to hear. Because you would

expect at some point, in one of her submissions, she would make some sense. You would at least expect that.

Hon. Senator: [*Inaudible*]

Sen. D. Nakhid: And, Mr. President, I do not normally ask, but I always get from the Minister, these outbursts—no, no, the Minister of Trade and Industry, you know, please, can you—if you want.

Hon. Senators: Protection.

Sen. Roberts: She cannot control herself.

Sen. D. Nakhid: Because somebody could be looking at—

Sen. Roberts: Like when Obama reached.

Sen. D. Nakhid: Go and find the \$26,000 cheque.

Sen. Roberts: Like when you grabbed Obama.

4.40 p.m.

Mr. President: We have had enough. Minister, and Members to my left, we have had enough of the crosstalk. It slows the process down, and it interrupts the Member contributing. Continue Sen. Nakhid.

Sen. D. Nakhid: They talking about—the hon. Senator spoke about Akili Charles, and Akili Charles, but he was murdered because of the incompetence of the PNM.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: The availability of firearms to gang members caused his death, caused his murder. They always try to reinvent a narrative, thinking that the UNC is asleep on the job. But the UNC is wide awake, unlike the Minister of National Security, who is responsible for all the crimes. You know, it is clear to us—

Hon. Senator: [*Crosstalk*]

Sen. D. Nakhid:—listen. Mr. President, when the Attorney General based a lot of his submission on recidivism, you know, I thought once again, when the PNM

speaks, you have to imagine yourself in some alternate reality. You know, and they speak, and hear what is the amazing thing about the PNM, especially this version, is that they speak like they just came into power—

Sen. Lutchmedial-Ramdial: And they “doh” know who was in charge.

Sen. D. Nakhid:—they do not know who was in charge before, and they are not there for 52 years. Every single time they speak, we going and do this, and we going and do that, and we pass legislation. When you ask them, did you operationalize it? No, they did not do that yet. So, they have all kind of legislation that yet to be. I am being disturbed by Senator—you know.

So, I am thinking, let us look at what are the real causes of the recidivism that the hon. Attorney General alluded to. And is not what he is speaking about. Because if you under-resource the DPP, which the DPP spoke about. You under-resource the TTPS, which they always complaints about. No cars, no gas to put in the cars, no diesel to put in the cars, no pen and paper in the station. I hear these things personally myself in Tunapuna, in St. Joseph, in Laventille, all of this.

Sen. Roberts: Not bulletproof vest.

Sen. D. Nakhid: No bulletproof vest, no CCTV. As a matter of fact, the gangs have more CCTV cameras than the TTPS. I mean, what more can we expect from a Government that has clearly failed in every area of security.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Every area of national security. The best thing they have, is this recurring rhetoric, all the time: “We do this and we do that”. And whole country looking around and saying, “Wah dem really do? Wat dey really do?”

Hon. Senator: They buy wooden ladders.

Sen. D. Nakhid: They buy wooden ladders.

Sen. Roberts: “Doh even worry wit dat one”.

Sen. D. Nakhid: I would leave that one alone. It costing \$1 million “ah” piece, a pop. I mean, you really have to ask yourself, you know. Mr. President—

Sen. Roberts: Is best you sit down yes. Because like “she eh want to debate. And she go say she not talking, yuh know”.

Sen. D. Nakhid: “I tired talk, I tired talk bout dat”. But let me tell you, Mr. President, what a UNC government—very soon. First thing, we will find a COP that is appropriately qualified. Not somebody that they—

Sen. Roberts: Handpicked.

Sen. D. Nakhid:—handpicked, compromised the Police Service Commission—

Sen. Lutchmedial-Ramdial: Into a set merit list.

Sen. D. Nakhid:—into a set merit list. All kind of—

Mr. President: So, Senator at this point, you have made your introduction, you curtailed your context, and so you are a bit broad. Remember we have a Bill before us, with specific clauses, to question certain actions to be taken, or the suggestion is made by the Attorney General in the piloting. So, even as you continue, remember to bring it back, or connect it to what is before us.

Sen. D. Nakhid: I am connecting it to how we can deal with crime fighting, to really and truly address what the Attorney General, so at length, spoke to. I mean a lot of his contribution was based on recidivism, and I am trying to—

Mr. President: Recidivism as it relates to bail, and the granting thereof. Now whereas, talking about crime might be allowed, because it is connected to the act of giving bail. You have to commit a crime to get in front the court, you know to ask for bail. It is not a crime debate, you understand where I am coming from. So, you have to connect into the fact that, we are dealing with bail.

Sen. D. Nakhid: Mr. President, I am guided. But before we reach bail, you have to detect, and our detection rate has been abysmal under this Government.

Sen. Roberts: And dropping.

Sen. D. Nakhid: Before we reach bail, you have to have charges laid. I mean we—correct, Mr. President. So, we heard the submission from the Member for Diego Martin West, yesterday, 45 minutes I think it was, about who did what—

Hon. Senator: In the other place.

Sen. D. Nakhid: In the other place. Sorry.

Mr. President: Remember you are in the Senate. So, as much as—it is just a passing reference. We are not debating what they debated in the House. You are in the Senate.

Sen. D. Nakhid: Alright, I am bringing it back. So, I am just saying, talking about—charges have to be laid. So, if you listen to the Member for Diego Martin West, who is responsible for the Head of the Security Council, speak about all these people who are so at fault, and have committed crimes with the intention to “topple the political directorate”, that is a direct quote. And so at the end, I was waiting to hear who was charged. Nobody “eh” get charged.

Sen. Roberts: So no need for bail?

Sen. D. Nakhid: So no need for bail.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Well, that is the point exactly.

Sen. D. Nakhid: So, all of this, smoke and mirrors. Once again, wasting people time. [Steups!] I know what I think is best—call elections now. Call elections now.

Hon. Senators: [*Desk thumping*]

Sen. Roberts: “No dey frighten”.

Sen. D. Nakhid: You know they—

Sen. Roberts: “Randall you wouldn’ know. You eh run—

Sen. D. Nakhid: Anyway coming back. However, they refuse to look at the reality of it is because—

Mr. President: Alright. Have a seat. So, the Member will the offending device please take a walk, turn it off, and you can return in about five minutes. As to the crosstalk, I am warning once again, it is getting little bit louder than my ability to actually hear Sen. Nakhid's contribution. Sen. Nakhid continue.

Sen. D. Nakhid: Thank you, once again, Mr. President. I would bring it directly back to some of the submissions from the hon. Attorney General. He spoke about how after the COVID how recidivism rose again, and all of that. But that is so duplicitous and disingenuous, it is unbelievable. The reason clearly why that happened is that when these offenders were on bail, they came out there were no jobs. The PNM had failed us economically, we lost 6,000 SMEs during the COVID, and they never did anything to revive that. That is a fact, 6,000.

Sen. Roberts: More going.

Sen. D. Nakhid: More closing. And these are the socioeconomic factors that I have spoken to, time and time again, in this august Chamber. Time and time again. And they do not want to acknowledge that because it does not concern them. Their constituencies are the ones in dire straits, their constituencies that they represented over sixty-something years in dire straits. Where are all the problems coming from? The constituency I grow up playing footballing in, and that is why I get angry with them. Because they are doing nothing. They are doing nothing to alleviate those problems. And you know you see them laugh—

Sen. Hislop: Mr. President—

Sen. Roberts: It is not a crime debate.

Sen. Hislop:—46(1) relevance.

Mr. President: So, Sen. Nakhid, the Bill is about the granting of the bail, and the

procedures in relation to that. What you are doing is talking about pre-granting of bail, after the granting of bail, and some of the reasons centred on that. If you follow the clauses in the Bill, you should be fine. So, speak to the granting of bail, and the procedures set forth by the Attorney General in the piloting of the Bill. Continue.

Sen. D. Nakhid: Then you have made my point for me. Granting of bail happens when a crime is committed. And I am saying, crimes are committed because they have failed us in socioeconomic manner.

Hon. Senators: [*Desk thumping*]

Mr. President: Senator. Saying that is fine, when you are creating the context in your introduction, which you have far gone past now. Every single Senator prior would have done the exact same thing and then got into the merits of the Bill, by way of its clauses. You at this point would need to the exact same thing in order to remain relevant. So, if you have a clause in the Bill that you would like to speak to, I invite you to do so now.

4.50 p.m.

Sen. D. Nakhid: Thank you, Mr. President, guided. Given that you have given that advice, I refer—I think, my colleague Jayanti Lutchmedial-Ramdiel handled that excellently.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: So my points basically were to be brief, Mr. President, and if the Minister of Trade and Industry would lower her voice—

Sen. Roberts: Then you could wrap up, yes. Let her find the 26,000—

Sen. D. Nakhid: All I would like to say, Mr. President, I think we have made the point that we fought for this Bill in the Senate, we got the support from the Independents, we forced this Government to copy, paste, and come back and

pretend that they were the initiators of this Bill, where they were defeated. I would like to once again thank this intellectually bankrupt Government for finally realizing what we were telling them over a year ago. And once again, we look forward to always supporting good legislation, Mr. President, as we do.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: I thank you very much, colleagues.

Mr. President: Sen. Vieira.

Sen. Anthony Vieira SC: Thank you, Mr. President. Before getting to the meat of my contribution, it might be useful to remind ourselves first as to the purposes of bail, and secondly, what has brought us to this point, where once again we are being asked to amend the Bail Act.

Now, in the criminal justice system, bail serves several purposes. The primary purpose is to ensure that the accused person appears in court for trial and other related proceedings. By posting bail, the accused provides a financial guarantee that he will return to court as and when required. Bail can also serve to protect the community by preventing potentially dangerous individuals from being released before their trial. Significantly, bail allows for the release of defendants who are presumed innocent until proven guilty, upholding their constitutional right to freedom while awaiting trial. This prevents unnecessary pretrial detention and associated hardships. Finally, by allowing defendants to be released while awaiting bail—while awaiting trial, the bail system helps to reduce overcrowding in jails and the associated cost for housing, feeding, and caring for inmates.

Now, overall the granting or refusing of bail, like so many of our other laws, requires a balancing exercise between competing interests and sometimes incompatible ends. Bail balances on the one hand, the need to ensure that the defendant appears for his court dates, and safety of the community, and on the

other hand, protection of the constitutionally enshrined rights of the accused.

Now, the reason we are here today is because the Privy Council in the Akili Charles judgment, of which more shall be said later, has now given clear and authoritative guidelines guidance on how that balancing exercise should be addressed. An exercise, which has proven troublesome in practice given historical uncertainties and concerns regarding the jurisdiction of magistrates and judges under the common law and certain legislation. In the event, the Akili Charles judgment has necessitated a number of amendments to the Bail Act and some important procedural changes. Let me just join with Sen. Lutchmedial in commending Mr. Anand Ramlogan SC in representing his client in the manner he did, because in doing so he has rendered great service to this country.

It bears noting that in the Akili Charles judgment, our highest court also addresses public policy concerns regarding the need to reduce violent crime vis-à-vis the risk posed to public safety by repeat offenders, as well as concerns about the local courts being too willing to grant bail to people who then commit further crimes, or seek to intimidate even eliminate witnesses.

However, before extrapolating the key points and principles arising from that judgment, it may be worthwhile noting that they offer no panacea for many of the associated problems regarding the bail system, such as, how it disproportionately affects low-income individuals who do not own property and are unable to provide even modest surety. How those who are unable to get bail may lose their jobs, homes, custody of their children while awaiting trial.

The destructive effects of prison on a prisoner's family life and prisoners' family ties can have long-term impacts on their lives and relationships even if they are eventually found not guilty. And what happens to those on remand when they spend time in the university of crime? Not just having to deal with unsanitary and

overcrowded prisons, but being in proximity with seasoned criminals.

This legislation does not address the failings of our education system as Sen. Dr. Richards has said, and the failings and shortfalls within the forensic and other support systems necessary for successful prosecutions. This legislation does not address the fundamental challenge of how we might create a society with more equality, inclusion, and opportunity for all. We cannot be blind to the injustices in society, a defining challenge of our time, but I digress.

The bottom line is that the Privy Council's judgment in the Akili Charles appeal, and this legislation before us, which follows as a corollary are seismic, in that they lay out a framework which conclusively resolves long-standing uncertainties and concerns. That judgment and this legislation will put to rest previously divided opinion within the Judiciary, Magistracy, and the legal profession, on whether the Executive and Parliament can preclude the courts from deciding on whether an accused person can get bail. The point of contention in the Akili Charles appeal concerns the constitutionality of a law passed by this Parliament, that bail may not be granted to any person charged with murder.

Now, without getting into the details of the case, suffice it to say, that Mr. Charles had been on remand for over eight years because of the vicissitudes of the system. The nature of his constitutional challenge required the Privy Council to evaluate the separation of powers doctrine in so far as it applies to bail, to address public policy concerns behind the Bail Act, and to consider whether a blanket prohibition of bail is permissible or unlawful.

Now I would summarize the key points and principles emerging from the judgment of the Privy Council as follows: At common law, the higher courts have always had the discretion to grant bail even in murder cases. Under certain laws, a magistrate could not grant bail to a person charged with treason, murder or, piracy.

But those laws do not and cannot preclude judges of our higher courts from so doing. There is no prohibition on the grant of bail in such cases under common law or under the applicable legislation.

Parliament can pass laws which are reasonably justifiable in a society that has proper respect for the rights from freedoms of the individual including laws which limit fundamental rights, in particular, the right to liberty once they are necessary in the public interest and they are proportionate. The proportionality test to be applied involves tasking in relation to a measure, and I am quoting from the Privy Council judgment:

“(i) whether its objective is sufficiently important to justify the limitation of a fundamental right; (ii) whether it is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community. This is an adaptable test which is to be applied with due allowance for the particular context in which it falls to be applied.”

The Privy Council accepts that remanding custody is rationally connected to the identified objectives. As they put it, a person in custody is incapable of violent offending, repeat offending, or absconding. Being in custody will also make it more difficult to interfere with witnesses or otherwise obstruct the course of justice.

However, blanket prohibitions which treat persons charged with listed offences indiscriminately denying the possibility of bail whatever the circumstances and however compelling the case for bail may be, well that is unconstitutional. Blanket prohibitions against the granting of bail are

unconstitutional because they operate in and around arbitrary and potentially unjust and unfair way. They are unconstitutional because they infringe a number of the rights and freedoms recognized in sections 4 and 5 of the Constitution, including:

“...the right not to be deprived of liberty except by due process of law.

The right not to be deprived of:

“...reasonable bail without just cause...”

And the right not to be deprived of:

“...procedural protection...necessary for giving effect to the...”—
section 5—“...rights and freedoms.”

So the Privy Council and now this Senate recognizes that the right of access to the courts on bail is a critical right. And while the courts are expected to be respectful of the choices made by Parliament to pass legislation, which might limit the right to liberty, and while the courts are expected to give great weight to the judgment of Parliament regarding the importance of the public interest, which is sought to be promoted by the measure in question, the courts are neither a tool of government policy nor a rubber stamp for Parliament.

Ultimately, it falls to the courts to determine where an accused should be granted or refused bail. Each case must be judged on its own merits. There can be no one size fits all approach. Now, when weighing the balance to be struck between the rights of the accused and the interest of the community, section 5 of the Constitution requires the court not to deny bail without just cause, and to be mindful of the presumption of innocence enjoyed before trial.

So, this is a serious, thoughtful, and innovative piece of legislation in how it attempts to reconcile competing ends while staying within the parameters of the ruling in the Akili Charles judgment. First, it recognizes that bail can be granted to any accused so there is no derogation from any of the fundamental rights.

Secondly, it ensures that when applications for bail by persons charged with murder, firearms offences, and other serious offences, those applications are dealt with by a judge or a Master.

Thirdly, the Bill seeks to impose conditions on the exercise of the court's discretion in granting bail to persons charged with serious offences. And where a judge or a Master grants or refuses bail, clause 6 requires them to give reasons for granting or refusing bail or for imposing conditions.

Last, but not least, the Bill importantly reverses the burden of proof. Yes, a person accused of murder and other serious offences can apply for bail, but the court will not grant bail unless the accused can show sufficient cause why his remand in custody is not justified. The burden of proof now lies on the accused to show exceptional circumstances to justify the granting of bail.

I believe that this legislation recognizes the proper boundaries between the Judiciary, the Executive, and Parliament. We are all partners in a common enterprise involving upholding the rule of law. The courts have their role to play in addressing the crime situation. Our judges are not blind to the crime crisis afflicting our country. They share the same space with us and they are also affected by it. But as guardians of our democracy, our judges are duty-bound to uphold the constitutional guarantees in respect of fundamental rights.

This legislation offers a blueprint to address legitimate public policy concerns regarding the rise in the incidence of violent crime, and the risk to public safety posed by repeat offenders, while at the same time ensuring that fundamental rights are not abrogated or abused.

A court is more than a courtroom. It is a process and a spirit. It is a place of law. Our judges understand the need to protect our citizens from violence, and we must have confidence in our courts that they are perfectly capable of protecting the

public interest. This legislation has due and proper regard for the complexities of the situation. I see it as a small hinge. But as the saying goes, small hinges open big doors. This legislation will go a long way in enabling our courts to address some of the complex challenges arising in bail applications. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Hislop.

Hon. Senators: [*Desk thumping*]

Sen. Laurence Hislop: Thank you, Mr. President. Thank you for the opportunity to contribute. Even though it will be very a brief contribution, Mr. President, I want to thank you for the opportunity to contribute in this debate. Mr. President, I want to firstly start off by thanking Sen. Vieira for his sober words and restoring a level of dignity to the debate this afternoon.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: A couple things that stood out for me in Sen. Vieira's contribution was that the legislation or the Bill recognizes the boundaries in the separation of power. Also, the balance of the public concern whilst the rights of even the accused are recognized. And I want to say that I believe the Government has found—and I want to compliment the Attorney General and his team for finding what I will consider the balance, as you so aptly put it Sen. Vieira

Hon. Senators: [*Desk thumping*]

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

Sen. L. Hislop: And the old adage that you used, I remember my father used that some years ago when I was—"small hinges open big doors". So he said you just have to take your time and do what you do. Things are going to happen when it is supposed to happen. Good advice. And I sat intently listening Sen. Vieira, through you, Mr. Vice-President, and I believe that the—coming from you, I believe that

not only you, Sen. Vieira, get it, but I believe the majority of the public of Trinidad and Tobago gets it, and understands what this Government is attempting to do with this legislation. There are those who may shout and tout bombastically all sorts of things, but this Government gets it. I painfully at some point in time—it is a debate, Mr. Vice-President, so I have to respond to Sen. Nakhid. I am challenged by the fact that someone who claims to be a “number one” intellect—

Hon. Senator: Nothing.

Mr. Imbert: Academic.

Sen. L. Hislop: Sorry, “number one” academic. What we had was a “number one” intellectually bankrupt contribution.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: Because—well, he distinguished himself, Mr. Vice-President, by having to sit after he recognized that he had nothing to contribute, coming from a self-proclaimed “number one” academic. This is very unfortunate. I would have expected that at least some sort of contribution to the Bill would have come. And when we—you know, the Opposition constantly seeks to say that the People’s National Movement have been in governance for 52 years in this country—and we are proud of our record of governance in Trinidad and Tobago. We are proud of our record. We are proud of the work that has gone in, in those 52 years of development, because I am sure that most of those sitting opposite benefited from policies of the People’s National Movement, even though, in some regard, Mr. Vice-President, it appears that they did not make full use of especially the education aspect of the policies of the People’s National Movement.

Hon. Senators: [*Crosstalk*]

Sen. L. Hislop: When we try to—when the UNC attempts, Mr. Vice-President, to talk about what they will do, we have a clear example of what the UNC has done

when—Mr. Vice-President, I sat very quietly and listened to Sen. Lutchmedial-Ramdial's contribution.

Mr. Vice-President: Just kindly maintain a minimum crosstalk, and if so, keep the volume down.

Sen. L. Hislop: Thank you, Mr. Vice-President. We have seen what Members opposite have done, so we do not need to try that experiment again. Because, for one thing I know, fortunately or unfortunately the Bail (Amdt.) Bill does not cover fraud. And so, Members opposite who now sit on bail—

Hon. Senator: In the other House.

Sen. L. Hislop:—would have to—in the other House—would have to just deal with it when it comes in due course, Mr. Vice-President. As I said, I am going to be brief. I said the Government has found a balance and I am truly impressed by what—I am no lawyer, but I am impressed by what has been brought to us today. We are in the presence of great legal minds, but one thing I can say is that this Bill goes beyond the legal aspect of things.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: This Bill redounds right down to the man on the ground, to the small man who will find himself or may find him or herself unfortunately in a situation where they may have to go before the courts. And as Sen. Vieira rightly said, the Bill creates that balance that if you—even for the accused, Mr. Vice-President. Because if you go before the judge or the Master and you find yourself in problems you—it is not that you are prevented from getting bail even for a serious offence, Mr. Vice-President. And I am happy for that, because we have to ask ourselves the question—and I would give credit to Sen. Lutchmedial-Ramdial. When the question—we asked the question: Is bail a right or a privilege?

5.15 p.m.

What we have done in this piece of legislation is created that balance that should speak to the fact that you have right to access. But you, as the accused, still have a burden of proof as to why you should receive—[*Device goes off*]*—bail. Today is a day of phones, Mr. Vice-President.*

You see, the Bill, Mr. Vice-President, seeks to impose and enhance the reversal burden on persons charged with the offence of murder and firearm-related offences. So, you have been arrested, stands on the foundation that you are innocent until proven guilty but in order for you to walk out of the courtroom, you, as the accused, would have to prove to the court why; why should I be—and as it puts it in the Bill, “exceptional circumstances”—why should I be considered as a citizen who could—even though I would have committed a crime, how could I still walk amongst the population until my trial date?

So for that, it gives the population that, hey, the Government is serious about fighting crime because we are making the strides towards making it even more difficult for persons who are accused of serious offences—and I want to make that very clear. In this—the Bill makes it very clear that you have to be charged for a serious offence and they are all listed, what that would look like:

“(a) an offence committed by a person over the age of eighteen years under the Anti-Gang Act...”

—we know the situation in our country where it has been recorded that we have over 100 gangs, and so the gang culture is a serious scourge on our country.

“(b) an offence under the Offences Against the Person Act...”

—which covers a wide range of offences.

“(c)...the Dangerous Drugs Act...”

(d)...the Kidnapping Act...”

—and all of these, Mr. Vice-President, are significant offences.

The Bill:

“...seeks to repeal the existing section 5 of the Act and substitute a new section 5...”

If I could just jump very quickly because I do not intend to be very long, Mr. Vice-President, it says:

“Subject to subsections (3), (4), (5) and (6), a Judge or Master may grant bail to a person who is charged with –

- (a) the offence of murder before, on or after the commencement of the Bail (Amendment) Act, 2024, where he can show exceptional circumstances to justify the granting of bail;”

I just want to jump to—I think this is what?—subclause (3), I think it is:

“A Judge or Master may not grant bail to a person who on or after the commencement of the Bail (Amendment) Act, 2024, is charged with an offence specified in Part II...

- (a) a previous conviction for an offence punishable with imprisonment for ten years or more; or
- (b) a pending charge for an offence listed in that Part,

unless he can show sufficient cause why his remand in custody is not justified.”

So again, Mr. Vice-President, we make the point that as a citizen, even though you are an accused, you have right to access bail but you have to show exceptional circumstances, and in those circumstances, you can be in a situation where you are a single parent, the only parent of maybe a minor and you do not have close relatives who can take care of that child. We do not want a situation where your child ends up in the system and we may just be creating another person to come

into the criminal system. The person can also be—it can be a situation where the individual is terminally ill and requires significant medical attention. But again, Mr. Vice-President, you have to show, you have to prove—and not only prove, but we also have to remember that that is at the discretion of the court.

One of the final things I want to touch on, Mr. Vice-President, is where it says in the Bill:

“(b) listed in Part II of the First Schedule, except an offence under section 6 of the Firearms Act, where the prosecution informs the court that the person or any other person involved in the commission of the offence used or had in his possession, a firearm, imitation firearm or a prohibited weapon during the commission of the offence...”

Mr. Vice-President, we have seen in Tobago, a significant uptick in gun-related offences, not only murders, but recently, within the last week, there was a shooting in Bethel. Four persons were shot. Unfortunately, the gun culture is, or has crept into Tobago.

We have information coming from the TTPS, which shows that between 2022 to 2023, we have had an increase of murders in Tobago: 2022, we had 10; 2023, we had 14; and at present, for 2024, we are at—I think it is 11. That is unfortunate and the data shows that even sexual offences, kidnappings, and if I am supposed to also look at possession of firearms and ammunition, there has been a marked increase within that period.

So this is what this type of Bill, Mr. Vice-President, is seeking to treat with. It is seeking to give that balance, as I said, that it shows to the population that the Government is interested and is engaged with regard to our crime situation in the country. But it also does not take away the rights of the accused because they are still citizens, and they still have to have their day in court.

So, Mr. Vice-President, I want to thank you for the opportunity to contribute. I believe that this is good law and as the Opposition has said, over and over again, they are willing to support good law, and so we are hoping that for the benefit of the public of Trinidad and Tobago, they follow after their colleagues in the other place and vote wholeheartedly for this Bill before us today. Mr. Vice-President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Sunity Maharaj.

Sen. Sunity Maharaj: Thank you very much, Mr. Vice-President. Sen. Hislop asked the question, whether bail is a right or a privilege. I cannot answer that. But what I can answer is that the right that we have is:

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

So this Bill that is before us, what we are engaged actually, is part of that due process of amending legislation, by a special majority, to facilitate the non-granting of bail for a longer period. That is something that is to be taken very seriously.

Sen. Lutchmedial-Ramdial spoke about the kind of trolling and the attack she expected when she stood up against the automatic 120 days in a previous debate, and where this attempt failed, because it is—I have no doubt it is a popular opinion, in the face of unbearable crime, for people to come to the position that you should just lock them up and throw away the key. As painful as it is, with every fibre of your being, sometimes that you are being drawn to that position, you have to hold on, as though you are in a hurricane, to the trunk of the tree, to the fundamental rights that we hope to one day get ourselves back to, without having to encroach so often. The Government sometimes think that the public’s interest is

the same thing as the Government's interest, and that governments know—obviously, because they have been elected by a majority of the people who vote—that they are on the solid ground. I want us not to miss the importance, really—I do not want us to miss what we sacrifice and what we are sacrificing in this period of intense crime, unrelieved crime, when we decide to allow the police to be able to lock people up for more than is the norm. We are sacrificing. It may seem to many people, this is something you should do; in fact, do more of it. But I am inclined to believe that the people who say that, they might be victims of crime and that is probably more understandable. But many of those people do not believe it will ever happen to them, that they will be locked up, and it could happen to them, it could happen to their children, it could happen, and they think it is so because certain people just do not get locked up, you know.

If you just look at the jails, who are the people who we expect to be locked up, we are talking about gangs. But are the people who are bringing in the guns, the people who are fueling a whole underground economy, are they expecting to go in jail and stay for a period of time before they can have the option to go before a court? That is where I want to place my contribution today, that the police service has to understand what we are sacrificing to give them this, and that we have expectations of them and their performance.

The police have to come back. We should ask for these reports. I do not want to hear how many people are arrested, as though that is a triumph. I want to hear how many people are convicted. Because we have had—there was a period where we were parading before the television station, how many people we arrested, and all those people eventually got out and a lot of them got money as a result. We want to hear how many people—and if, in fact, the police can come back and demonstrate that this has allowed them the opportunity to actually build

cases and win cases, then we may find that we do not need this kind of legislation because the police would have gotten themselves to a point where they can actually detect crime, build a case, find the evidence and have those people in jail.

We want the people who are putting us at risk every day, you know—I do feel that any of us who are alive, it is because nobody wants us dead bad enough. Because anybody wants me dead bad enough, all they to do have to do—I have no gun and I have no particular security or nothing. They just do not want to kill me yet. That is how I feel. Right? That is how I feel.

So the police must know that they are under watch by us. This Parliament, we have gone and given them a piece of something, a sacred right:

“the right to...liberty...”—the right to—“...enjoyment of property...the right not to be deprived thereof except...”

We have gone an extra mile. We have given them that before and look where we are. Any Senator here who is not under 27 years will remember—well, you will not remember—I do not think Helon might remember. But within our lifetime, the murder rate was under 100. That we have crossed 600 is unbelievable.

So I will support this, but with a great deal of pain. I want to see that this power that we are giving away, that it amounts to something, and it cannot be that we are just going to ask in perpetuity and it becomes a norm, because the public is so scared, angry.

5.30 p.m.

And if the police can get—not just the police service. I think Sen. Lutchmedial-Ramdial did a good job by tracking down why these cases—why they failed.

Sen. The Hon. Armour SC: Would the Sen. give way for a question?

Ms. S. Maharaj: Sure.

Sen. The Hon. Armour SC: May I ask, what is the power that is being given away? I just do not follow that. You just said the power is being given away. I genuinely do not follow.

Ms. S. Maharaj: I am talking about the presumption of your right to bail. That I think that—is it not going to be more difficult to access bail? I know that the judge is going to have that discretion, and we are giving the judge exceptional circumstances, and we do not want to define that. Right. And so, that is where I am saying that we are tightening—I mean that is the whole point, to narrow the space. Okay. So, that all the bases on which people—because I heard the Attorney General talk about repeat offenders. Right? The repeat offenders. We do not want our people to be raped and killed and so on. Because people are getting—repeat offenders are getting bail and coming out. But I do not want that to happen from a first offender either. I want to be safe, I want us to be safe.

So we have so deal with crime. Not simply, the people who commit crime. And therefore, the scope for them on the basis of that, they have committed a crime. A judge will say you have committed a crime and so on. We are narrowing that space. I want to deal—we are here with this piece of legislation, because crime, not repeat offence, but crime has reached a level that is untenable. Scary. And so this is a piece of legislation—but there is so much more that we cannot legislate, that lies in the hands of the management of the different elements of the protective services, and the administration of justice, that have to be activated with this little space that we are giving them here today. It has to transform itself into some level of success.

We have to see some corresponding reduction. So my point here is, let us not take it as something that we take it lightly or the norm, or it becomes the norm.

Our efforts must be to use this opportunity to rein in crime, so that we can pull back and restore our rights, our full rights under the Constitution. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice President: Sen. Francis.

Hon. Senators: [*Desk thumping*]

Sen. Helon Francis: Thank you, Mr. Vice-President. Thank you for the opportunity to contribute to this Bill. The Bail Amdt. Bill seeks to make substantial changes to the existing Bail Act. It aims to tighten the conditions under which bail can be granted, particularly for serious offences, while enhancing judicial transparency and accountability.

Now, allow me to give a short story, why this might be so important. I can remember some years ago, I had a friend of mine, who was put in jail for something as simple as maintenance.

Hon. Senator: [*Inaudible*]

Sen. H. Francis: I am just saying—it depends. Now—

Hon. Senators: [*Laughter*]

Sen. H. Francis:—he was put there, and the way he related the story was, whilst being there amongst hardened criminals, he would be asked sometimes, what he was there for? And his response was always the same thing, murder.

Hon. Senator: Who would do that?

Sen. H. Francis: Murder.

Hon. Senators: Wow.

Sen. H. Francis: But he said that out of fear.

Hon. Senators: Wow.

Sen. H. Francis: Out of fear, he started changing who he was.

Hon. Senator: “Yeah”.

Sen. H. Francis: Right. So you see why this is so important? Of course, the intent of the amendments are good. I know one can argue that, it is an appropriate time for the amendments to be made, especially given the current situation in the country. That said, for me, this Bill is less about crime and criminals itself, or the administration of justice, but more about the citizenry. Insulating the public from any impact of the administration of justice, which quite frankly they should be protected from and not have to care about.

It may be shocking for us to know, but in many countries, the crime section in the newspaper is often overlooked. Not that there is no news in it, because there is, but if you do not have anything to do with the crime, it is absolutely of no concern to you. Unless it is an extraordinary circumstance or something sensational, people skip past that section of the papers and simply assume that whatever the situation is, justice will be administered, and that is their culture. But not here.

In that regard, this Bill and some amendments is less about the people inside the system of the crime administration, and more about the people that are outside going about their business. It is about the culture of crime. Because crime creates a culture in society. And it stems from how the law abiding citizens, that have nothing to do with crime, shape the culture, depending on how they perceive its impacts. But everything in life comes with a cost.

We cannot forget that when the next debate on the budget appropriation comes up—this year. The hon. Minister of Finance will start to tell us about the millions that he seeks to approve for. Only then, we will understand the impact of that cost. I anticipate that the proposed amendments, whilst aiming to enhance public safety, and judicial transparency, which is paramount, it will require

significant additional resources to administer justice effectively. It must. The corresponding budget provisions will have to be made.

So it is crucial for policy makers to consider these resource implications, and ensure that the judicial system is adequately funded, and staffed to handle the increased demands. Otherwise, less funds available for a bigger process can lead to even more loopholes, delays, or other problems. I am not an expert on criminal administration, and the cost associated with the same. But we all know that legal fees and other direct or indirect costs associated with more robust justice administration can be significant.

We see the figures in the papers from time to the time, about legal bills, that the Government incurs on different matters, \$50 million, \$70 million and perhaps over time, that is only the tip of the iceberg since there is no doubt many other cost occur, with legal fees. Some may say that is the cost of justice, or is it perhaps the cost of the absence thereof, in terms of efficiency, fairness, and the clarity of law, being most important. Because some will argue that the lack of clarity in the law is where legal fees blossom.

5.40 p.m.

That said, how does it compare to the cost of the innocent lives lost and the fear instilled in the public, not just for those who are victims and witnesses to the crimes that these amendments are meant to address, but to those picking up the papers every day and talking in the maxis or the in the lunchrooms, in these intimate spaces? These are the places and moments that culture is changed, when people lose faith in the justice system. “It really ain’t happening to them yet”, but God forbid, about that misfortune, especially if it will happen to be their family or put their livelihood at risk. See crime has changed our culture. The most dangerous weapon the criminals have is not guns or the things we see on social

media. The most dangerous weapon is their power to instil fear without any sort of repercussion whatsoever. Now that is what is perceived. See, that is the perception, and not the fact. But, it does not matter because you know what they say. Your perception is what sometimes becomes your reality. So with this Bill, along with the whistleblower, there is possibly a change in our culture. So it leaves the question, is this going to be another effective conversation or is this going to be an effective implementation? Thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister in the Ministry of Works and Transport.

Hon. Senators: [*Desk thumping*]

The Minister in the Ministry of Works and Transport (Sen. The Hon. Richie Sookhai): Mr. President, I want to welcome you back into the Chamber. Mr. President, before I get into the meat of my contribution, I want to offer congratulations to our neighbours to the north, the United States of America, for celebrating 248 years of independence today on July 4th.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: I want to put that on record and congratulate our neighbours to the north. As well as, I will like to offer condolences to the family of Mrs. Shanti Lall-Paladee. She is the matriarch of the Pennywise group of companies. She recently passed away. Pennywise, actually, is one of the formidable companies that helped shape and mould our country for what it is today. Mrs. Shanti Lall-Paladee, who was an avid Hindu and Sai devotee, recently passed. She actually passed just before visiting some sites where they were building houses for the unfortunate ones. So her name should go down in the *Hansard* of this country.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: Mr. President, before I get into the meat of my conversation, I want to thank you again for this opportunity to contribute to this Bail (Amdt.) Bill, 2024.

“The purpose of the Bill is to amend the Bail Act Chap. 4:60...to make provision for the restriction of Bail to persons charged with serious offences.”

Some of the positive outcomes that we are looking for is to help speed up the justice system and also to curb recidivism.

You know, I heard Sen. Nakhid go on his rant and he gave us an accolade of you know, he went to St. Mary's and he went to the United States to be educated. I as well went to Presentation College, Chaguanas, which is no less.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: I, also, was educated in the United States. I also do not drink, smoke and I am a member of the “5 am club” so he could say [*Inaudible*]

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: The only thing, I know, I came out with a degree in both engineering and an MBA in International Business, while he is known for “kickingball”, right.

Hon. Senator: “Oooh”

Sen. The Hon. R. Sookhai: So, “he could kick ball from now until Lebanon and I doh know what other success he could come up with”, right.

Hon. Senators: [*Crosstalk and laughter*]

Sen. The Hon. R. Sookai: But again, right, he wants to talk about what we do, 52 years of PNM? Let me just read something for you hon. President. In an IDB report in 2016:

Increase in rape, incest and other sexual offences in 2012 could be explained by the state of emergency declared from August 21 to December 05th, 2011. In their effort to reduce crime during the state of emergency it was illegal to be outdoor at night. Past research has shown that the large proportion of sexual offences are committed by persons known to the victim.

In this case, an unintended consequence of the state of emergency, which they imposed, this was the outcome and there were victims. Actually there is even more to that Mr. President, and if you allow me to quote from a United States' Department, Bureau of Democracy, Human Rights and Labor in a 2012 report:

“The Anti-Gang Act bans membership of criminal gangs and gang-related activities as defined within this statute, and permits authorities to hold suspects detained under the law without bail up to 120 days pending filing of specific charges. Authorities detained approximately 450 suspects during the 2011 state of emergency, pursuant to this act. The government eventually released nearly all of them when prosecutors determined that evidence of gang activity pursuant to the law was lacking in most cases.”

And they want to say our 52 years of governing this country did nothing? Well, you could imagine what the five years they did, and imagine putting them for another five years what will happen.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: But, we know. We know.

Sen. Nakhid: [*Inaudible*]

Sen. The Hon. R. Sookhai: You could kick the ball somewhere else.

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

Sen. The Hon. R. Sookhai: Mr. President, I have the pleasure to sit amongst the Joint Select Committee on National Security, headed by the Member of Parliament

for Port of Spain South, the hon. Keith Scotland who recently was awarded Senior Counsel, a well-deserved Senior Counsel. I would like to congratulate him. Also co-chaired by our hon. Sen. Dr. Paul Richards and we had, at one of the Joint Select meetings, the Judiciary. I want to just give a basic summary for the general public to understand the matter at hand. When you are talking about matters, there are three matters when it comes to judicial review. There is the summary matter, there is the indictable matter and there is the triable “either way” matters, right. Depending on—you go to whichever court. There is the District Court and then the District Court judge and there is the High Court judge. Now, when we are dealing with the indictable matters, for preliminary enquiries, there is a hearing, not a trial, where evidence is provided for cross-examination. Next process—

Sen. Lezama-Lee Sing: Mr. President, on a Point of Order please. Standing Order 50(1)(e). I am trying to hear my colleague but it seems “everybody over there have ah condition of noise or something”.

Mr. President: Standing Order again, 50?

Sen. Lezama-Lee Sing: Yeah.

Hon. Senator: 51(1)(e)

Sen. Lezama-Lee Sing: 51(1)(e).

Hon. Senator: Noise, just noise.

Mr. President: Okay. So it is a Standing Order in relation to silence when a Member is contributing and of course, as I always state, we just temper the level of cross talk and hum and noise while the Member is contributing. Continue Minister.

Hon. Senators: [*Desk thumping*]

5.50 p.m.

Sen. The Hon. R. Sookhai: Thank you, Mr. President. You could see all that ball

kicking has affected his hearing, maybe his speech impediment. Coming back to my contribution, Mr. President, when it comes to an indictable act after it moves to the evidence-gathering stage, there is the trial where individuals before the High Court are able to apply for bail, especially in serious crimes and offences, somewhat like murder, now giving the Master the approval, right? Now, as an engineer, understanding all the legal jargons, I will like to make it a little more simple by breaking it down to understand how the Master operates like a project manager in such cases and project manager where he coordinates the paperwork for both sides and then presents everything. So, that everything is in a line and in order so that they can continue with the proceedings. The Master is now given the ability to come forward and have the ability to look at granting bail especially when it comes to exceptional circumstances is now a way forward in pushing us to achieve what we want by providing speedy justice.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: You know, the Master who was overseeing or who chaired and represented the Judiciary, Ms. Christie-Anne Morris-Alleyne who was the Court Executive Administrator and a Master at that, she explained to us that between May 2022 and May 2023—and she listed the amount of cases that were put forward and how many grants, in terms of who got bail granted. So, for instance, and I will just quote it by months, then I will go forward, 27 were listed in May, starting from May 2022: 27 listed, 6 granted; 87 listed, 3 granted; 70 listed, 4 granted; 67 listed, 4 granted; 65 listed, 5 granted; 38 listed, 2 granted; 46 listed, 3 granted; 53 listed, 5 granted; 58 listed, 0 granted; 54 listed, 3 granted; 61 listed, 3 granted; 46 listed, 1 granted; 26 listed, 0 granted. A total of 39 individuals were able to achieve bail in that year. This Bill seeks to amend that, and to look to increase that number so that we can get the wheels of justice turning once more.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: And again, I mean, I must—and I understand where Sen. Lutchmedial-Ramdial was speaking and I do sympathize with her when she comes to the fact of people who suffered at the hands of these rapists. I mean, I could tell you, I have a great aunt that actually suffered, she was 80-something years old and she suffered at the hands of a rapist, until the day she died and she died with a broken heart. It is not something nice. The individual when tried, they realized that—mentally unstable and it goes to show how many cases come forward.

So, Mr. President, this Bill is not only timely, it is also something that will help us in the arsenal of fighting the burgeoning crime situation in this country.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: And it is not like our Government is not putting our best foot forward, we are trying our best unlike what Sen. Nakhid said who knows how to “kick his ball good”. But, you know, coming back to my point now, what I just want to say in my winding-up, because I do not want to be long, it does not matter, because it has been elaborated through and through.

I know Sen. Lutchmedial-Ramdial spoke about the licence plate detection and I want to tell the goodly Senator, that from the Ministry of Works and Transport part, we are rolling out a process. The thing is that the first step was to get licences in order, digitizing the process, we went through, we combed through the entire process in terms of licence plates and matching chassis numbers with them, so, those that are duplicated are actually stamped out. This is all in a process of our crime-fighting initiatives.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Sookhai: It is not a hoax. We are there and we will do it with

their help or without their help. But I know where our Government is focused. With that, Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Thompson-Ahye.

Hon. Senators: [*Desk thumping*]

Sen. Hazel Thompson-Ahye: Thank you, Mr. President, for granting me the opportunity to participate yet again in this week of back-to-back debates, but duty calls. And I had a beloved relative named Horatio Richardson from Mayaro, although, he was not the original Horatio Nelson whom I quote, he too would have said, the Republic of Trinidad and Tobago:

“...expects every...”—woman—”...to do...”—her—”... duty.”

So, I am here to do my duty as best I can. This is not the battle of Trafalgar though, it is a battle between rights in our Constitution.

“The Constitution is the supreme law of Trinidad and Tobago...any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.”

Those are not my words, but are the words in section 2 of the Constitution of the Republic Trinidad and Tobago. Section 5(1) of the Constitution states:

“5. (1) Except as is otherwise...provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognised and declared.”

Section 5:

“(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—

(f) deprive a person charged with a criminal offence of the right—

(iii) to reasonable bail without just cause;”

Section 54 provides for the Parliament to alter certain sections of the Constitution including that same section 5 provided that when the final vote is taken, it is supported by the votes of not less than two-thirds of all members of each House.

The Bail (Amdt.) Bill, 2024 before the Senate today, seeks to tamper once again with section 5 and substitute certain additional conditions for the granting of bail. What this amendment is seeking to do is to continue to erode the constitutional right to bail the presumption in favour of bail and substitute instead a new regime of bail under certain specified conditions. Let us look at the “how,” and the “why” of the proposed amendment.

This Bill is seeking to have judges and Masters deny bail to persons charged with murder unless they can show exceptional circumstances to justify the granting of bail for certain indictable offences and hybrid offences where those persons have previous convictions for offences punishable with imprisonment for 10 years or more, or is charged with offences specified in Part II of the First Schedule and so on. I can do no better than to repeat what the framers of the Bill have given us as the rationale for this Bill.

“The purpose of this Bill is to amend the Bail Act, Chap. 4:60 (the Act) to make provision for the restriction of bail to persons charged with serious offences. The Bill seeks to give effect to the ruling of the Privy Council in the case of *Akili Charles v State* [2022] UKPC 31 by providing that a Judge or Master may grant bail to a person charged with the offence of murder. The Bill also seeks to impose conditions on the exercise of the Court’s discretion in granting bail to persons charged with the offence of murder, serious offences listed in Part II of the First Schedule and firearm related offences. Further, the Bill seeks to impose an enhanced reversal of burden

on persons charged with the offence of murder and firearm related offences to require such persons to show exceptional circumstances to justify the granting of bail. The Bill also seeks to require a review of the Act to be conducted every five years after its commencement. Finally, the Bill seeks to provide that bail granted to an accused under section 5 of the Act will continue to apply after this Bill comes into operation.”

We should not be surprised that this legislation is brought to the Parliament. The Prime Minister does not speak idly, he is not as secretive as some believe, and he is good at signalling his intentions, if we would only listen. In his conversation with the Prime Minister on May 23rd at the Scarborough Library as reported in *Newsday* on May 25th in Corey Connelly’s story headlined:

“...Justice favours criminals”

The Prime Minister expressed his frustration at the criminal justice system, and to quote Connelly:

“...expressed his displeasure at the state of affairs in the Judiciary when it came to bail for certain serious crimes.”

Now, although the head of the Criminal Bar expressed shock at the Prime Minister’s statement, many agree with the Prime Minister. How many times have we heard that a person who committed a crime was out on bail or had more than one firearm offence?

Clause 4 which amends section 5(2)(a) at first glance seems harsh. To deny bail to someone charged with murder or another indictable offence, and to deny the liberty of a subject not convicted, are not matters to be taken lightly. It is not beyond the skills of a lawyer faced with defending someone charged with murder to show exceptional circumstances to justify the granting of bail.

In the one murder case I did after which I vowed not to do another, my 17-

year-old client was badly wounded, it was a clear case of self-defence. At the Magistrates' Court, the prosecutor, a true minister of justice, told the Magistrate, in fact, Nannette Forde-John who became a Magistrate herself that she agreed with me, the prosecution had not negated self-defence, but, it was sent to a jury trial. It was probably the shortest time in our history in which the jury returned with a not-guilty verdict despite the summing-up, which is another story for when I write my memoirs.

Hon. Senators: [*Laughter*]

Sen. H. Thompson-Ahye: On the second day of the trial, the Police Commissioner had said, "you win da case already girl," even though it was a police officer's son who had been killed. But what I must say is that both parents were extremely honest on the witness stand in answering my questions. Yet, my client had to spend three years in remand and I do believe that affected him for life.

The amendment to section 5(3) which speaks to non-grant of bail for certain serious offences punishable with imprisonment for 10 or more years or where the person has a previous conviction or pending charge of that nature for such offences, unless, he can show sufficient cause why his remand in custody is not justified, is another case calling for skilled lawyers, not in short supply in this jurisdiction given the flood of SCs and SCs in waiting and in our jurisdiction.

The amendment to section 5(4) gives testimony to the fact that firearms are the weapons of choice for murder, for robbery and other serious offences. The amendment to section 5(5) is directed towards the administration of justice personnel playing their part because it looks at evidence being taken within 180 days. The time requirement seeks to balance out the rights of the accused against the seeming harshness of the legislation. It places responsibility not only on those who are presiding but also on the investigative arm of the State who frequently do

not play their role as efficiently as they should.

I would like to make a public call for police officers who play the fool, to be removed from the service. I know of a case where police interviewed a witness, and the witness contradicted a statement given by a suspect, the police said they will return to take a statement from that witness. Four and a half years have passed, and the witness is still waiting for the police to take the statement.

The amendment to section 5(6) and (7) shows a recognition that people can and do change their lives around and I commend the Attorney General for its inclusion because if you have not offended for 10 years, you could safely say that there might some lady in your life who has helped you to turn your life around.

The amendment to section 5(8) calls for the civil standard of proof rather than the criminal standard of beyond a reasonable doubt. This is noteworthy and in the circumstances, it shows a willingness to alleviate the seeming harshness of the law.

6.05 p.m.

Clause 5, which amends section 6A, extends the jurisdiction of the Bail Act to Masters of the High Court, and that is sensible, because then you have more judicial personnel available to deal with the large number of cases that we have.

Clause 6 inserts a new section 9A after section 9 to provide for the:

“...Judge or Master...”—to—“...give reasons for granting or refusing bailor for imposing conditions...”—and to include those reasons in a decision.

This will be of immense value because it will facilitate any decision you have to make regarding the appeal. If you know the reasons and you know that they are cogent reasons, then you know, “I should appeal,” although there are people who appeal for no good reason whatsoever. One lawyer told me that, I said, “You cannot win this case. Why are you appealing?” “How yuh mean, de client giving

my money, girl.” Anyway, that is what happens sometimes, values

Clause 7 provides for:

“...review of the Act every five years...”—and for that review to be laid in Parliament.

This is important because as things change, you find that you notice certain trends and they should assist you in deciding what direction you need to go.

Clause 8 provides for some tidying up of the provisions and the specified offences to which the amended Act applies. It pleases my heart to see that they even tidied up the grammar which, you know, I talk about all the time.

Clause 9 is the savings clause to ensure that existing bail is not affected. It is not unusual for jurisdictions to amend their bail laws, not once or twice, but several times for various reasons, depending on the nature of their concerns.

Two studies from Australia, one by Julie Stubbs from the University of Sydney titled, Critical Reflections on Bail and Remand for Young People in New South Wales, from ANZ Critical Criminology Conference Proceedings in 2009, and from Alex Steel for the University of New South Wales titled, “Bail in Australia: legislative introduction and amendments since 1970” show how bail laws are modified over the years. So maybe somebody at the university can actual do a study about the amendments to the Bail Act from since the 1980s, see where we are going, how we have fared.

The concern over drugs, over the safety of victims, over repeat offenders, over firearm offenders, the number of them, about murder and other serious offences have move Legislatures to amend their laws. Some have done so to protect victims of domestic violence. I have not seen that trend there and I highly recommend that this be considered. Too many women have lost their lives after repeatedly reporting that they are victims of domestic violence. The men should

be in jail.

I am satisfied that these amendments are evidence of willingness to strike a balance between the rights of the citizen, whether potential or actual victims and offenders, all of whom are entitled to their human rights. So I will support it. Thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Attorney General.

Hon. Senators: [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. President, and I will start my brief remarks with a tribute, which I paid only yesterday, to once more finding myself moved and impressed and enriched by the quality of the wise women and men of the Independent Bench.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: But I was even more enriched today in listening to the remarks by the remarks of the youngest Member of the Independent Bench—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC:—and I pay tribute to Independent Senator, Sen. Helon Francis.

Hon. Senators: [*Desk thumping*]

Dr. Browne: If he is the youngest.

Sen. The Hon. R. Armour SC: If he is the youngest. I will give way to him if I misunderstood him, but he started off by speaking to the focus of the Bill before this House, and I understood him to be referring to the guidelines that the Bill seeks to give to the Judiciary, and he used the term, “enhancing judicial

transparency and accountability”. I commend that perception.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: It goes back to a point that I often want to return to, and that is the debate—let it be as neutral as I can be—to the debate that we have on the separation of powers in this place and in the other place. That very wise remark of the Independent Senator, that the provisions of this Bill before this Chamber and therefore, asking for the imprimatur of the legislator, the Parliament, is a very good, current, contemporaneous example of the true meaning of the separation of powers, that is to say, this Executive, of which I am proud to be part, brings to this House, this Chamber, a piece of legislation by which the other part of the State, the Parliament, will hopefully give its imprimatur in order to enhance judicial transparency and accountability in the exercise of their jurisdiction to grant or not to grant bail. Now, that is the working of the separation of powers, where the different arms of State come together under our Constitution, and I pay tribute to Sen. Helon Francis.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: I will return to a couple of the other things that the good Senator said, but let me go back to my original intentions, in terms of the remarks—the few remarks I want to make. Again, I am referring to one of other Independent Senators. Sen. Dr. Paul Richards has gone on record and I am grateful to him for putting on record here today the fact that our statistics show a 60 per cent/ 70 per cent recidivism rate in Trinidad and Tobago, and we are talking about that in the context of the Bill. One of the important facts that we are putting on record here today, so that this Parliament can maturely exercise its deliberate legislative power, is to have the data that speaks to the legitimate aim in order to manage the proportionate exercise of what Parliament is about to do. So thank

you, Sen. Dr. Richards, for adding that data to our bank, of some of the data that we had put before this Parliament today.

In speaking to the recidivism, of course, the Senator makes the call for Trinidad and Tobago having a more effective restorative justice system in Trinidad and Tobago. And I can give the Senator, if I am just permitted to commend by way of a reply, not strictly on the issue of bail, but to assure the Senator that the Office of the Attorney General and the Ministry of Legal Affairs is in active correspondence with the prison service as we work through a conversation with respect to restorative justice and measures that we are hoping to take in that regard.

We have in the make as well, a parole Bill, also to deal with an issue which Sen. Lutchmedial-Ramdial raised, that is to say, the remand conditions that we need to do better with. We accept all of that.

Sen. Vieira has—as one would always expect on another occasion, but I will not go there today. I was tempted. Sen. Vieira embraced the Bill with certain criticisms, and I accept that. While he makes the point that the Bill does not address the failings of our education system and societal systems, we accept that this Bill is not a panacea for everything that we need to fix in the society. We never said it would. And the amendment that we are seeking here today is just one part of the fabric that we are trying to rebuild for a better society, keeping our citizens safe.

We have also had other remarks from other Independent Senators. If I may respond briefly, I asked her to give way at a certain point to—Sen. Sunity Maharaj—because she was using a turn of phrase that I was not following, that is to say, she was making the point that the power that is being given away. And I asked her to give way, and I am grateful that she did, and she explained that she was talking about, in the context of the power that is being given away, the

presumption of the right to bail.

Well, I think the answer to that was put better than I could, by what Sen. Helon Francis said, because we are not giving a power. We are, in the respect of a citizen's right to liberty and the fact that the Judiciary, from 1898, has always had the discretion to grant bail, seeking to enhance the capability and to provide guidelines to make that capacity, when exercised, to grant or not to grant more transparent. So we are not giving away any power. We are rather providing guidelines by which, properly, to assist the Judiciary—we, the legislators—in making their task more clear, more transparent, more accountable by providing reasons, and the reasons would then conduce to whether there is a good appeal or not. We are providing for the right to appeal. So, Mr. President, those are my few remarks of gratitude to the Roman-wise Bench of the Senate.

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Armour SC: I regret to have to go on record to say that I hope, in the fullness of time and greater maturity, Sen. Nakhid will rise from the abyss into which he descends so often—

Hon. Senator: [*Laughter*]

Sen. The Hon. R. Armour SC:—and pay respect to being a Member of an ancient—

Sen. Nakhid: [*Inaudible*]

Sen. The Hon. R. Armour SC:—hallowed tradition, which deserves more respect than he gives it, every time he stands.

Sen. Nakhid: [*Inaudible*]

Mr. President: Sen. Nakhid, I have warned earlier on—have a seat, Attorney General. The language, just be careful. Attorney General.

Sen. The Hon. R. Armour SC: Thank you, Mr. President, and I was in the

process of saying that I am an optimist at heart and I—

Sen. Nakhid: [*Inaudible*]

Hon. Senator: Mr. President—

Mr. President: Sen. Nakhid, so the next outburst will be dealt with accordingly. Attorney General.

Sen. The Hon. R. Armour SC: Thank you, Mr. President, and I was in the process of saying that I am an eternal optimist and I live in hope that in maturity, Sen. Nakhid will give the respect to this House, which it deserves.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Mr. President, let me pay tribute to Sen. Laurence Hislop. Let me paid tribute to Sen. Renuka Sagramsingh-Sooklall. They have put a rich contribution to the debate we had here this evening.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Let me pay tribute to Sen. Sookhai.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: It encourages one to participate in this process when we have the richness of the quality of the Bench that the Government brings to this place.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: Let me finally address one or two of the remarks which Sen. Jayanti Lutchmedial-Ramdial made. She spent a lot of time, Mr. President, applauding the fact—and I can congratulate her. She was part of the legal team that took Akili Charles to where it went. I congratulate her on that.

6.20 p.m.

I am always happy to see lawyers, young lawyers, ascend to greatness. It is an important decision. As I have said of the Suraj decision, this one will be written

off in the Constitutional, and the public law books, for a long time. But do not let the politics do a disservice to a noble profession, the legal profession.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: So, while I accept that the Government appealed the Akili Charles decision, the Government lost in the Court of Appeal, and appealed the decision to the Privy Council. That is not a criticism of the Government. Governments have to be responsible.

Hon. Senator: Exactly.

Sen. The Hon. R. Armour SC: And if we look at paragraph 10 of the Akili Charles decision of the Privy Council delivered on the 28th of July, 2022 this is what paragraph 10 tell us:

“On 17 February 2022 the Court of Appeal (Archie CJ, Dean-Armorer and Holdip JJA) allowed the respondent’s appeal...”

So we lost in Court of Appeal, fair enough.

—

“...the Court of Appeal...”—in Akili Charles—“...held that the Bail provision was not existing law and that the earlier majority Court of Appeal decision in *Krishendath Sinanan v The State* [1992] 44 WIR 359 was wrong in holding that the High Court did not have jurisdiction to grant bail to a person who had been committed for trial for murder.”

So let us pause and reflect on that. At the 28th of July 2022, the law in Trinidad and Tobago was in conflict. Two courts of appeal of the Supreme Court of Trinidad and Tobago, one reported [1992] 44 WIR 359 in the case of *Krishendath Sinanan v The State* had held that the High Court did not have jurisdiction to grant bail. And until the decision of a higher appealed court that decision was on binding. On the 28th of July 2022, when Akili Charles was

determined in the Court of Appeal, and the Court of Appeal found that the High Court did have the jurisdiction to grant bail. What you had was the classic conflict of jurisprudence at the same level. It was the duty of a responsible Government to take that to the higher court.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: It would have been irresponsible in the extreme. It would have been a dereliction of executive and constitutional duty for the State not to have appealed that. It had to go to the apex court so that we could get the benefit of the final court of appeal, which at this point in time is the Privy Council. Settling a conflict which had existed for 20 years, between two courts of the same jurisdiction, the Court of Appeal of Trinidad and Tobago. So do not use the political platform to trump one's trumpet to suggest that the Government was wrong to have to have appealed.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: The Government had to appeal. Let us be lawyers, when we have the honour to belong to that profession. We have had significant statistics put before this august Chamber, Mr. President, and I just want to leave one last word to commend to this Chamber, the fact of us being on good ground.

In *the Attorney General v Morgan* [1984] Law Reports of the Commonwealth, page 780, a significant decision emerged out of the Court of Appeal of this country. Some of us are old enough to remember that case. It was the Rent Restriction Case. The responder challenged the Rent Restriction (Dwelling-Houses) Act, 1981, which had been passed with the required majority in accordance with section 13 of the Constitution, a supermajority. This legislation introduced a cap on the amount a landlord could charge for rent. The cap applied for properties that attracted rent charges within a specified range. The respondent,

a landlord, challenged the constitutionality of the rent control legislation on the grounds that it infringed his right to property, and as it only applied to certain landlords, it amounted to unequal treatment.

The Court of Appeal allowed the appeal of the State on the basis that the respondent had failed to discharge the burden of proving that the law was not reasonably justifiable. So let us go back to the reasonably justifiable legitimate aim principle established by the Court of Appeal in 1985, of this country. Critical to the court's reasoning was the fact that the State was able to produce evidence in the form of data to show how many tenants were likely to benefit from the protection afforded by the legislation.

So that was a good example in another factual scenario entirely, where the Legislature of this country had passed legislation with a legitimate aim to control rents in the face of a runaway landlord class in the country, and one of the landlords challenged it the basis of being unjustified and the court of appeal—and it was not appealed—held that it was in pursuit of a legitimate aim. The data was before the court to have satisfied the Parliament that it was an appropriate exercise of parliamentary jurisdiction to have capped the rents and therefore, the Rent Restriction Act was upheld as satisfying the three-fifths majority. So if ever we needed precedent by our own Court of Appeal for what I ask this Parliament, this Chamber today to do, that is the precedent, and with those words, Mr. President, 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.

Mr. Chairman: Hon. Senators there are nine clauses in this Bill. I have not

received any circulated amendments and as such, we will proceed accordingly.
Clerk.

Question put and agreed to.

Clauses 1 to 9 ordered to stand part of the Bill.

Preamble approved.

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

Senate resumed.

Bill reported, without amendments.

6.30 p.m.

Question put: That the Bill be now read a third time.

Mr. President: This Bill requires a special majority. The Clerk will conduct a division.

The House voted: Ayes 30

AYES

Browne, Hon. Dr. A.

Armour SC, Hon. R.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

Cox, Hon. D.

Bacchus, H.

Ibrahim, Dr. M. Y.

Sagramsingh-Sooklall, Hon. R.

Sookhai, Hon, R.

Lezama-Lee Singh, Mrs. L.

Hislop, L

London, Ms. K.

Mark, W.

John, Ms. J.

Lutchmedial-Ramdial, Mrs. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Richards, Dr. P.

Vieira SC, A.

Teemal, D.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Hutchinson, Prof. G.

Patasar, Dr. S.

Maharaj, Ms. S.

Francis, H.

Hon. Senators: [*Desk thumping*]

Question agreed to.

Bill accordingly read the third time and passed.

Mr. President: The Attorney General.

MISCELLANEOUS PROVISIONS
(JUDICIAL AND LEGAL SERVICE) BILL, 2024

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald

Armour SC): Thank you very much, Mr. President, I beg to move:

That a Bill to amend the Constitution of the Republic of Trinidad and Tobago; the Judicial and Legal Service Act, Chap. 6:01; the Children Act, Chap. 46:01; the Patents Act, Chap. 82:76 and the Legal Profession Act, Chap. 90:03 with respect to the administration of the Ministry of Legal Affairs and for related matters be now read a second time.

Mr. President, the need for a comprehensive restructuring of the Department of Civil Law of the Ministry of the Attorney General and Legal Affairs was flagged and highlighted extensively since 2006, under the then Attorney General John Jeremie. The dire need to avoid further calamitous events by bringing amendments and changes to the structure of the department of civil law culminated in the drafting of the Bill now before this House, which was approved yesterday in the other place, dramatically came to the fore notwithstanding the 2006 efforts of Attorney General John Jeremie in the circumstances surrounding the now infamous High Court case, Civil Matter 2020, No. 01243 of *Shervon Peters and others v The Attorney General of Trinidad and Tobago*, which I shall call “The claim or the case”.

A brief history of this matter is necessary in order to understand why, by this Bill, before this House today, the Government of the Republic of Trinidad and Tobago, who has considered these amendments to the above mentioned Acts as being both crucial, essential, grossly overdue, and in fact urgently necessary for the effective running of the Civil Law Department of the Republic of Trinidad and Tobago. Mr. President, investigations concerning the claim, that is to say, the claim of Shervon Peters and the case to which I have referred, have revealed that the relevant proceedings in that case, and I say deliberately, were cynically not served at the correct office with the result that full activity resulting in a default

judgment against the State, in which the State was ordered to pay a sum in excess of \$20 million, could go undetected by the State's Civil Law Department.

How was it, Mr. President, that days after I called the 2023 media conference, having been alerted to the fact of this judgment, to announce that in the wake of that \$20 million judgment I would leave no stone unturned that the missing file mysteriously appeared on the tabletop of an empty desk of a vacant office in the Civil Law Department. And that is why I used the word "cynically". This underscored the need, Mr. President, to look closely at the systems and processes used by the State in its civil law portfolio urgently. And, after a much justified public outcry following that decision I decided to appoint an independent investigative team on the 2nd of February, 2023, consisting of Ret. Justice Mr. Stanley John and Mrs. Pamela Schullera Hinds, retired head of the Special Branch of the Trinidad and Tobago Police Service, to do the following, among other things:

1. To enquire into the facts and circumstances relating to that case, Shervon Peters, commencing from the 22nd of June, when service of the claim form and statement of case were effected but mysteriously disappeared, including the decision of the High Court, dated 30th January, 2023, and cumulated in the handover of the file of that case to the Acting Solicitor General on the 6th of February, 2023, when it mysteriously reappeared on an empty desktop of a vacant office. I add, an empty desk of a vacant office.

The second terms of reference, to enquire into and establish the facts and circumstances regarding the role or rules played by any Minister, member of the Civil Law Department, or any other person employed at the Office of the Attorney General and Ministry of Legal Affairs in the management and conduct of that case.

3. To enquire into and establish whether there had been any dereliction of duty, violation of any law, conflict of interest and/or breach of trust on the part of any Minister or member of the Civil Law Department, or any other person employed at the Office of the Attorney General and Ministry of Legal Affairs in the management and conduct of that case.
4. To enquire into, for, and examine the current procedures of the Office of the Attorney General and Ministry of Legal Affairs and the Civil Law Department relative to the management and conduct of civil litigation involved in the State.
5. To make recommendations to improve the management and conduct of civil proceedings taken by and against the State at the Office of the Attorney General and Ministry of Legal Affairs and the Civil Law Department, and to have recourse to such information technology expertise as necessary.

Eight—because I have skipped two, I have skipped six and seven which were to report in writing, respectively, to the Judicial and Legal Service Commission and to the DPP.

8. To make such other and incidental enquires which concern and relate to the subject matters of enquiry as the investigative team may deem necessary, to give effect to any findings made by the investigative team and/or remedy and/or prevent any act of misconduct as may be found by the investigative team, and on the need, if any, for the enactment, amendment or repeal of any law of Trinidad and Tobago relating to civil proceedings by and against the State. And;
9. To issue a report with recommendations to the Attorney General

within 60 days of the establishment of this investigation on the 5th of February, 2023, with reference to those terms of reference, and a full and final report with recommendations within six months of the 5th of February, 2023.

Mr. President, the preliminary report was submitted by the investigative team on the 31st of March, and the full and final report was submitted to me in June of 2023. Permit at this stage, Mr. President, to record with the nation's deepest gratitude to Ret. Justice Stanley John and Ret. Mrs. Pamela Schullera-Hinds, former head, Special Branch, Trinidad and Tobago Police Service, for their invaluable and expeditiously comprehensive work. For brevity only, Mr. President, I will use the words "investigative team" and to refer to the final report as either the final report or the John report. During the course of their investigations, Mr. President, the team met with heads of departments in civil law, and I am emphasizing this now. This team was appointed by me in February, 2023. They commenced their investigations from that date, and during the course of their investigations the team met with heads of departments in the Civil Law Department, led at the time by Ms. Karlene Seenath, Acting Solicitor General, the Permanent Secretary for the Office of the Attorney General and Ministry of Legal Affairs, the Director of Information, Communications and Technology at the Office of the Attorney General and Ministry of Legal Affairs, among other persons.

In the submission of their full and final report, the team carefully examined and addressed the roles and functions of the Chief State Solicitor and the Solicitor General, identified certain shortcomings and made several recommendations with respect to improving the management and conduct of civil proceedings taken by and against the State at their Office of Attorney General and Ministry of Legal

Affairs. Mr. President, during the course of that investigation the team carefully scrutinized the procedure of the Civil Law Department as it relates to the management and conduct of civil proceedings. They examined how court documents are handled once served at the Office of the Attorney General and Ministry of Legal Affairs, where these documents are logged, by whom, where these documents are placed after they have been served, and most importantly, to whom are the cases assigned for conduct of the matter. Mr. President, the current information technology infrastructure at AGLA was also assessed in terms of how much it is used by officers attached to AGLA, AGLA being Attorney General and Legal Affairs, and how best ICT could be used in the future by the Civil Law Department to improve their processes and efficiency and to ensure that similar circumstances do not recur.

In making their recommendations as part of their mandate, Mr. President, the investigative team examined reports from 2006, commissioned by former Attorney General Jeremie, 2008, of a committee comprising two former Solicitors General who subsequently went on to become High Court judges and judges of our Court of Appeal, as well as a senior professional in organizational management, a senior professional in Human Resource Management, the then Permanent Secretary to the Office of the Attorney General and Ministry of Legal Affairs, and chaired by the then, at the time, and Sen. Richie Sookhai referred to her today, the then Court Executive Administrator of the Caribbean Court of Justice, at the time, Master Christie-Anne Morris-Alleyne.

The investigative committee appointed by me in February 2023, Mr. President, acknowledged that the 2006 and 2008 committees held extensive and exhaustive consultations. I am emphasizing this because of something that I will return to, Mr. President. The investigation committee of the Justice Stanley John

Committee acknowledged that the committees appointed in 2006 and 2008 had held extensive and exhaustive consultations with members of the various departments of the Office of the Attorney General and Ministry of Legal Affairs, allowing them to produce extensive reports entitled “Reports of the Committee” to enhance the delivery of legal services to the people of Trinidad and Tobago, so that the consultations to improve the Civil Law Department have been going on since 2006.

6.45 p.m.

Mr. President, I emphasize that the exhaustive and extensive consultations go back that far in part because of the sorry debacle which occurred yesterday in the other place led by the hon. Leader of Opposition and to which I shall return in due course.

In the course of the investigative team’s work, Master Morris-Alleyne was asked by Justice Stanley John to review those 2006 and 2008 reports with a view to ascertaining whether the situation had changed significantly. As part of her task, Mr. President, Master Morris-Alleyne, whilst being part of the Justice Stanley John, Pamela Schullera-Hinds investigative committee, met with senior officers of the Solicitor General’s Department, senior officers of the Chief State Solicitor’s Department, the Director and staff of the Information and Communication Technology Department. So these consultations have been going on since February of 2023. We are now in July of 2024.

The Permanent Secretary for the Office of the Attorney General and Legal Affairs, the Registrar General of the Registrar General’s Department, all with a view to an intention of understanding the concerns of the officers of those departments about the state of the Civil Law Department of the Office of Attorney General and Legal Affairs and ascertaining whether there were any changes in the

services they delivered, their modes of delivery, their processes, their resources and their tools. She reported to the investigative team.

After all the information was collected and their investigations were completed, the investigative team concluded and determined that the structure of the Civil Law Department of the Office of the Attorney General and Ministry of Legal Affairs did not afford ample opportunity or fertile ground to enable the types of processes and procedure changes required to be or to become an efficient and well-organized civil law department.

The investigative team under Mr. Justice Stanley John's leadership identified among other things: Poor systems, weak processes, a lack of accountability. I quote only one paragraph out of the remarks in their report, which is here, Mr. President. I quote:

It has become evident that there are and have been weak processes which have resulted in unfortunate outcomes. It was necessary to understand where the weak processes came from. Why were they allowed to remain? Who was studying them? Was there a culture of continuous improvement? More often than not, processes are an outcome of systems and organizational structure and it continues to be evident that the existing structure lends itself to less than sound systems, limited accountability, process failure and limited engagement.

Continuous review, which should be one of the hallmarks of modern organizations, is not encouraged in this organizational structure. The legal heads and their senior legal staff saw the processes as the responsibility of some amorphous "them" who somehow had the power and the legal heads simply had to take it or complain. But never that they should take the lead or be involved in the process design or redesign. Data entry was seen as something done by IT, not the responsibility of each person as the computer replaces the pen.

It is for this reason—says the Stanley John, Pamela Schullera-Hinds Committee—it is for this reason that we approach these recommendations by first discussing the organization. The design of the organization must be such that the head of chambers sees themselves as accountable for not just the cases that they are handling, but the systems, the processes, the efficiency, the throughput, the standard and in general, the full organization.

End of quote.

This is the report, Mr. President, and I will make some remarks about unfortunate remarks made yesterday about this report. The investigative team officially therefore recommended that:

1. There be a Civil Law Chambers which should be a merger of what is now the Solicitor General's Department and the Office of the Chief State Solicitor formerly called the Civil Law Department in keeping with the Judicial and Legal Service Act, Chap. 6:01;
2. The administration of the Civil Law Chambers be bolstered by the introduction of Chambers management within the Civil Law Chambers and that the Chambers Management be headed by a competent Chambers Manager;
3. The Office of the Registrar General and the Intellectual Property Office be separated from the Civil Law Chambers and formed as offices on their own. This was seen as necessary as the work of the Registrar General is quite different from that of the rest of the Civil Law Department; and
4. The positions of senior children's attorneys and children's attorneys be formerly created and filled under the provisions of section 88 of the Children Act, Chap. 46:01.

Mr. President, permit me at this juncture to acknowledge that in the wake of the 20 million judgment I retained Mr. Retired Justice Rolston Nelson who led a team of attorneys and who has successfully been able to set aside that judgment, never mind the judgment is now not unexpectedly under appeal under the leadership of Mr. Anand Ramlogan.

On the 19th of October, 2023, Cabinet accepted the Justice Stanley John Report and authorized me as Attorney General to come back with recommendations which I did. On the 5th of April, 2024, Mr. President, I formally retained retired Court Executive Administrator, Master Morris-Alleyne, as consultant to the Office of the Attorney General to implement the recommendations of the Justice Stanley John Report.

For the record, it is important that I ask this Chamber to acknowledge that prior to her retirement as Court Executive Administrator in 2023, Master Morris-Alleyne served successfully in that capacity under the late Right Hon. Mr. Justice Michael de la Bastide, Kings Counsel, as Chief Justice of the Supreme Court of Trinidad and Tobago, went on to serve as Court Executive Administrator under President of the Caribbean Court of Justice, President Michael de la Bastide, and after his retirement returned to the Supreme Court of Trinidad and Tobago in the capacity as Court Executive Administrator under Chief Justice Ivor Archie, ORTT. Need I say more as to the suitability and competence and experience of retired Court Executive Administrator, Master Morris-Alleyne as my consultant to implement the John report recommendations.

Mr. President, following on her appointment, on her retainer, Master Morris-Alleyne has held a series of meetings and consultations on my behalf with the staff of the two departments, the Solicitor General and Chief State Solicitor, as well as with the Registrar General and the Controller of the Intellectual Property

Office on the reform process, the first step of which process, reform process, is represented by this Bill. And let me just list some of the events that occurred in the process of that consultation which Master Morris-Alleyne undertook on my behalf with the Chief State Solicitor, Solicitor General and their staff.

Meetings with seniors in each department; meetings with lawyers of the Solicitor General, sometimes for over three hours; meeting with lawyers of the Chief State Solicitor's Department, sometimes for over three hours at a time; joint meetings and working sessions, sometimes lasting over five hours with both departments, where all concerns were aired and written down and collated. She received lists of questions and concerns; she exchanged several emails and phone calls from staff who were invited to contact her freely and did. She held several meetings with the Solicitor General and the Chief State Solicitor; she received their observations; she had several conversions by WhatsApp and phone, et cetera, with the Solicitor General and Chief State Solicitor, a running conversion she tells me with the staff of each of those two departments.

She received excellent suggestions from those consultations and took them into consideration in the recommendations that she continued to make to me. And these included not proceeding to abolish some of the positions that we are going to examine today and not to create new positions so that she accepted some of those recommendations. And the approach to dealing with public officers first by the Bill and then to address contract officers, actually came out of those consultations. The names were also worked through by several conversations. That is to say, the names that we would be examining here today, culminating in a conversion on which people voted. There were votes taken in those meetings.

Permit me, Mr. President, to turn to the Bill in some detail. The Judicial and Legal Service Act provides for the creation of a civil law department in the

Ministry of Legal Affairs under section 12. And section 12 provides that:

“(1) The Ministry of Legal Affairs shall comprise the Departments of Civil Law, of Criminal Law, of Legislative Drafting and of Accounting which shall be headed respectively by the Solicitor General, the Director of Public Prosecutions, the Chief Parliamentary Counsel and a public officer to be designated Permanent Secretary in the Ministry...”—Ministry of Legal Affairs; and

“(2) The Civil Law Department shall include the Departments of the Chief State Solicitor and of the Registrar General.”

The Bill seeks to reorganize and restructure the Department of Civil Law, Mr. President, by doing a number of things. In the main: fusing the Department of the Chief State Solicitor and the Solicitor General’s Department into one civil department and for provision of children’s attorneys under the Children Act, and for effective chamber management to provide for an improved opportunity for sound, strategic and operational management of the Civil Law Department.

Secondly, creating the Registrar General’s Department as a separate department in the Ministry of Legal Affairs with the Registrar General as chief legal officer; and

Thirdly, making provision for persons in the Intellectual Property Office to be engaged on contract to perform their specialized functions in such a way as to provide for some element of contractual stability.

Mr. President, a number of legislative changes are being proposed but none of them change the substantive functions of the officers under consideration. None of them altered terms and conditions of any of the substantive officers. What by this Bill is being done is to rename a number of the officers to put them into one fused department, to align their responsibilities under the Solicitor General and

because we now, “we” being lawyers, Mr. President, and that is since 1985, we now exist under the Legal Profession Act, which fused the former division of barristers and solicitors which we inherited from the UK to become attorneys-at-law. What you will now see in the Bill is the naming of attorneys instead of Chief State Solicitor to be Chief State Attorney. But the substantive positions have not been changed. Mr. President, how much time do I have left?

Mr. President: You end at 7.13 p.m.

Sen. The Hon. R. Armour SC: Thank you. Mr. President, so we remove the references to the department of the Chief State Solicitor as a distinct sub-department of the department of civil law: Clause 5(d)(ii); distinguishing between the responsibility of the department of civil law and specific statutory civil law functions and responsibilities: Clause 5(d)(ii) of the Bill as well; and removing the distinctions between offices under the Chief State Solicitor and the Solicitor General simply by changing the names of those offices to reflect our fused profession.

Section 12(1) of the Judicial and Legal Service Act, Mr. President, provides for three main legal departments. That is to say—

Mr. President: AG.

Sen. The Hon. R. Armour SC:—the Department of Civil Law; the Department of Criminal Law; and the Department of the Chief Parliament—

Mr. President: You actually end at 7.18 p.m.

Sen. The Hon. R. Armour SC: Thank you very much, Mr. President, and the department of the Chief Parliamentary Counsel.

With respect to the department of civil law, Mr. President, section 12(1) of the Act provides that the Solicitor General is the head of the department. That has been retained. That has not changed. The Civil Law Department under the Bill

before this House has been retained and the head of that department by that name is retained as the Solicitor General. And that retention of that name actually came out of the process of consultation. There was originally an intention to name it differently, consistent with the fact that we are no longer solicitors or barristers. And out of the consultation I was persuaded, I actually participated in one of those meetings, that the name “Solicitor General” is an international brand that exists across the English-speaking Commonwealth.

And therefore, it would be a disservice to the Office of Solicitor General in the international plane, where that Solicitor General has to function cohesively with other Solicitors General across the Commonwealth to change the name. So out that consultation, I accepted, we will leave the head of the department as the Solicitor General, but everyone under the Solicitor General, they will be renamed “attorney” as opposed to Solicitor. I am emphasizing the process of consultation because I was so aggrieved by what happened in the other place yesterday, Mr. President.

7.00 p.m.

Section 12 of Judicial and Legal Service Act does not detail the functions of the department, Mr. President, because the functions remain the same. Any function conferred by legislation to either the Solicitor General—wherever that legislation exists in Trinidad and Tobago—or the Chief State Solicitor, will remain the responsibility of the civil law department, whether or not the particular legislation is amended to refer to the department. The department of civil law is the umbrella under which those two offices will function.

Additionally, the proposed Bill envisages and recognizes that many of the rules and functions of the department of civil law are not currently and will not be expressly assigned in legislation, because they have traditionally been performed

by the holders of the Office of Solicitor General and Chief State Solicitor. They have existed since 1961, with independence, Mr. President. And the proposal before this House, by the Bill, recognizes that the Attorney General, being charged under section 76 of the Constitution with responsibility for, and I quote from section 76:

“(2) ...the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State...”—may assign duties to the department of civil law.

It is recognized in the Constitution.

The Bill also expressly refers, Mr. President, to Part I of the First Schedule to the Judicial and Legal Service Act that sets out the legal offices of the department of civil law, and these offices include the current offices of the Solicitor General department, the Chief State Solicitor sub-department, and offices required under the Children Act, that is to say, the children’s attorneys and senior children’s attorneys.

Mr. President, as I have said, the Solicitor General remains the head of the civil law department. She also performs—she or he—other statutory functions that are specific to the holder of the Office of the Solicitor General. Similarly, specific legislation provides for functions to be provided by the Chief State Solicitor. These roles will remain specific to that office-holder, notwithstanding that that officeholder will now be known as the deputy chief state attorney under the Solicitor General. A change of name, Mr. President. So that the Chief State Solicitor is now known as the Chief State Attorney, not deputy—I beg your pardon—and will continue to assign and delegate functions that are statutorily assigned to the Chief State Solicitor to other officers.

Sections 52 and 53 of the Interpretation Act provide that any statutory

function conferred on any public officer may be delegated to any other officer within the same Ministry. It is not necessary for the officer with the statutorily assigned role to be the head of department or sub-department for other officers within the department to exercise functions related to the statutorily assigned role.

Mr. President, it is not practical to specifically identify and prescribe responsibilities for every civil law matter to a particular department or officer. For the avoidance of doubt, Mr. President, a new section 12(2A) is inserted, which clarifies the scope of the department of civil law and provides that the specific civil law functions assigned by legislation, which have existed before, will continue to be exercised by the entity or other offices specified in the legislation. And the purpose of that proposed subsection (2A) is twofold.

1. It seeks to clarify that while there will be one department of civil law, if any law specifically assigns a duty or function to the Solicitor General or to the Chief State Solicitor, that duty or function remains that of the officer renamed. The officer simply operates within the new fused department of civil law as opposed to being in a sub-department.
2. The proposed (2A) recognizes that some functions that may come within the broad scope of a civil law matter, may have to be assigned to some other public functionary. In such case, that office-holder or body will be responsible for the function specifically defined.

State attorneys: Mr. President. I have already spoken to the fusion of the Legal Profession Act, 1985, and the maintenance of the anachronisms of state solicitor, Chief State Solicitor are just that, they are redundant anachronisms. So we are bringing Trinidad and Tobago in line with the 1985 legislation, under which all of us in this Chamber, who are lawyers and were called to the Bar, under which

legislation we have been called to practise.

Senior children's attorneys and children's attorneys: Section 88(2) of the Children Act, Mr. President, mandates that the children's attorney offices be an office within the department of civil law. So we are recognizing that and we are proposing by replacing Part I of the Schedule to bring those attorneys properly in and described. And it is, therefore, proposed that Part I of the First Schedule be repealed and substituted to reflect the following changes: The Office of Chief State Solicitor be renamed as Chief State Attorney; the Deputy Solicitor General and Deputy Chief State Solicitor be renamed Deputy Chief State Attorney; all other offices within the designation state solicitor, state council or similar designation, renamed state attorney; the inclusion of senior children's attorneys and children's attorneys within the ambit of the First Schedule; and the removal of the offices of Controller, Deputy Controller of the Intellectual Property Office, and as well as the Assistant Controller will be inserted into Part V of the First Schedule as they are not part of the civil law department. They were created under the Patents Act and are now going to be a separate office within the contemplation of this Bill.

Chambers management: Mr. President, yesterday, I permitted myself to speak of myself when I made the pronouncement and I do not necessarily apply it to anybody else, lawyers are not good managers—

Hon. Senator: Correct.

Hon. Senator: Oh boy.

Sen. The Hon. R. Armour SC:—Mr. President. We are not.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Armour SC: And therefore, what we are doing by this Bill to amend the Judicial and Legal Service Act, is we are making provision for the

Judicial and Legal Service Act to provide for and create a position of chambers manager who will not be a lawyer necessarily, but who will be experienced in, among other things, operational structures, human resource management, performance standards, to get the lawyers, who are performing a service to the public, to function in a cohesive, efficient, structured way. So we are creating a non-legal position and the precedent for that exists.

The Permanent Secretary of the Office of Attorney General and Ministry of Legal Affairs, the civil law department, does not necessarily have to be a lawyer. But under the Schedule to the Judicial and Legal Service Act, the Permanent Secretary is an accounting officer and is part of the structure. So we are simply building that out to accomplish, for the better quality of service, that lawyers in the civil law department will perform to give them the management capacity under somebody who is recruited as being skilled in that area. It is to be a new senior, non-legal, non-public service contractual position to enhance the management of the department of civil law.

Public sector management—

Sen. Thompson-Ahye: [*Inaudible*]

Sen. The Hon. R. Armour SC: Yes.

Sen. Thompson-Ahye: You mentioned chambers management or manager, and you said person experienced in operational structure and so on, and that person will be managing. So I am head of a department, I manage my staff, you present me now with someone who is going to teach me because they have the managerial experience and skills. So what happens to me? Am I supposed to be happy with that? You know, I hear you with your arguments about consultation and everything, and perhaps you can tell us how have the staff members reacted to the change? Are they comfortable? Are they happy? Do they have questions? I am

curious because the way you speak, I am getting an underlying feeling that you are trying to convince, not only us, but everybody else. So convince me.

Sen. The Hon. R. Armour SC: Thank you, Sen. Thompson-Ahye. I will briefly answer your specific questions with three short points, but as I continue, I hope you will also accept that I address them. Firstly, clause 5 of the Bill before us proposes to amend section 12 of the Judicial and Legal Service Act. If you go to page 5, you will see that at the bottom of page 5 it says;

“(iii) by inserting immediately subsection (4), the following subsections:

(4A) There shall be a Chambers Manager who shall,”—imperative word ‘shall’—“in accordance with the general or specific directions of the Solicitor General...”

So to answer your first question, the chambers manager is answerable to and is functioning under the general and specific directions of the head of the department, the Solicitor General.

And secondly, to answer your question, subsection (4A), to:

“...provide general administration support, including strategic and operational planning, to the Department of Civil Law.”

And what that contemplates in public sector management today, Sen. Thompson-Ahye, it is far more complexed and onerous, and we need persons who can take instructions from the Solicitor General, but bring a skillset and a body of experience that lawyers neither have the time to accomplish and discharge, nor are they skilled in that new task.

So I say that to you in specific answer to your questions, and I will come to the question of consultation and the quality of consultation as I continue, if I may?

Sen. Thompson-Ahye: And the expressed concerns with it?

Sen. The Hon. R. Armour SC: So that the chambers manager will be a suitably

qualified professional—

Mr. President: Attorney General, you have five more minutes.

Sen. The Hon. R. Armour SC: Thank you, Mr. President—who will support the head of department in harmony with the Ministry’s strategy for general administration, including ICT development and implementation, and performance management.

We also accept, on the Bill that is before the Parliament, this Chamber, that we are going to create a Registrar General’s Department as a separate department of the Ministry of Legal Affairs, and we are going to make the Registrar General, “Chief Legal Officer” in his or her own right.

We are also going to make consequential amendments. So in addition to the proposed amendments, that is fusion of the department of civil law, the establishment of a separate department of Registrar General, we propose that certain challenges to the effective administration and operations of the department of civil law and Intellectual Property Office will be addressed. And we are proposing that the Children Act will be amended to allow the functions of a children’s attorney to be performed by more attorneys of the department of civil law.

We also propose that the Patents Act should be amended to provide for officers, other than the Controller, Deputy Controller and Assistant Controller of the IPO to be either public officers or engaged on contract. The Legal Profession Act is also being amended to include the Registrar General among the chief legal officers.

The restructuring—and I am coming now to your question about the concerns, Sen. Thompson-Ahye. The restructuring of the civil law department has been a work in progress for a long time. I have already referred to the 2006 report

and consultations which commenced then in 2006.

7.15 p.m.

I was yesterday appalled by the fact that the hon. Leader of the Opposition read into the record a letter which came into my email dip at 12.01 a.m. on the 2nd of July; a letter addressed to me by signatories who are officers of the Solicitor General's Department, which I did not intend to address because I saw that letter as a challenge to me to continue the engagement. So much so that I replied—it was a letter from the Solicitor General. I replied to the Solicitor General's letter on the 2nd of July in these terms:

Dear Solicitor General (Acting),

Thank you for your email which I have asked Master Morris-Alleyne to meet with you on since as you know she is my lead consultant has already met and addressed many, if not all, of these concerns and she will be more than able to provide any further clarity required. I have copied Master Morris-Alleyne and she will correspond directly. Please keep me in copy in your responses to her.

And I communicated that I was unable to meet on the 2nd because I was in the Parliament morning and afternoon until midnight of that day. Master Morris-Alleyne had a four-hour meeting with these attorneys, after which the letter arrived in my dip on the—whatever date.

The letter misstates the fact of consultation. The consultation—when you read the letter, the letter shows that the consultations have been taking place since February of 2023—of 2024, I beg your pardon, 2024. The letter speaks to the brand of Solicitor General which was an accession that I made in the consultations that were taking place. I invited—and this is important for the record. As part of that consultation, I invited the Chief State Solicitor, the Solicitor General, the

Registrar General and the Comptroller of the IPO office to attend the LRC at which the Bill which was scrubbed and went to Cabinet was engaged in and to which they had no objection. They attended the LRC meeting.

I received today a letter that I want—at 12.46 p.m. today, I received an email in these terms. I am going to edit it slightly because I do not want the person to be identified. This is a member of the Solicitor General’s Department:

Dear hon. Attorney General,

Forgive me for taking this direct approach in addressing you but after yesterday’s development...

Talking about the House of Representatives yesterday.

...concerning the reading of the letter dated 1st July by the Opposition Leader, I feel compelled to express myself in this manner. I have served in the Solicitor General’s Department for almost—blank—years—I put in blank—whilst I am of the view that the concerns expressed in the letter are legitimate, I have to distance myself from what I perceive to be a move that lacked respect and integrity. At no time was it communicated to me that the letter was intended to be sent to anyone else besides your good self. I do not believe that the leaking of the letter reflects a good faith attempt to have the legitimate concerns addressed appropriately. It is unfortunate that our concerns were leaked and canvassed in this manner.

I received that today at 12.46. My time is up. Mr. President, I beg to move.

Hon. Senators: [*Desk thumping*]

Question proposed.

Sen. Wade Mark: Thank you, Mr. President. Just about five hours ago, we would have been advised through the Attorney General that this Bill, that it took the Office of the Attorney General a substantially long period of time to formulate,

was given to this honourable Senate in terms of our procedure, our Standing Orders, it was only read for a second time just about four and a half hours ago. Based on what the Attorney General has indicated in his contribution, this is a Bill whose contents are very deep, sweeping and far-reaching and it requires deep thought, discussion, consultation, research. We have been working from Tuesday into Wednesday into this Thursday. Right?

Mr. President, I want to serve notice on this Government that after I speak, I cannot guarantee this Government any further cooperation on matters that are before us because I am exhausted, myself, like my colleagues are, and I do not want anyone to accuse me of being part of a new section 34. So we need time to study these matters.

In fact, Mr. President, I would like to say from the very outset that because of the importance of the matter before us, this Bill should be properly referred to either a Joint Select Committee or a Special Select Committee where we will bring in all the players. I do not trust the Attorney General.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: I do not trust the Government.

Sen. Roberts: Not you alone. He does lie on affidavit.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: So, Mr. President, if we are to hear from the workers, from the public officers, be they contract officers, be they public officers, I would like to be part of a select committee that can interview them in-camera if they do not want, Mr. President, to be subject to a public hearing. But for heaven's sake, you cannot bring a matter before this honourable Senate dealing with what? Reclassification. That is not my responsibility. That is the responsibility of the Salaries Review Commission.

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

Hon. Senators: Yes, yes. [*Desk thumping*]

Sen. W. Mark: You are asking me, Mr. Vice-President, to agree with a number of things. We are being told by the hon. Attorney General that he has a report from a Retired Stanley John, who I have the greatest respect for. But I know between himself and Rolston Nelson, provisionally they got almost “ah million dollars”. I do not know the final price tag for their work. But you know what? The contempt, the contumely, disrespect that this Attorney General has shown towards this Parliament and this Senate. He showed us a short while ago this is the report. “Buh wah it is?” This is a secret report? So we paid over “ah million dollars”. Right?

Sen. Roberts: “Buh dah he money.”

Sen. W. Mark: It did not come from the Attorney General’s pocket, it came from our pockets, the taxpayers of Trinidad and Tobago and yet still, the Attorney General has not furnished us with a copy of the Stanley John Report.

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

Sen. Roberts: “Ah disgrace, shameful.”

Sen. W. Mark: And he regales us with cherry-picking recommendations and findings and we do not have a clue because we do not have access to the report.

Sen. Roberts: “We doh need him to read fuh we.”

Sen. W. Mark: And then to even make things worse, we are told that he hired a consultant. He has a consultant called some Christie-Anne Morris-Alleyne. And obviously, Mr. President, if I am to take it from the Attorney General, the honourable Master, former Executive Master in charge of administrative matters in the Supreme Court, generated a report. She has been involved in a number of consultations. But where is her report? Where is the consultant’s report? But

again, “dais ah secret document” but you are tying our hands behind our backs, blindfolding us and telling us “trust me”, trust the Attorney General. AG, we do not trust you.

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

Sen. Nakhid: We do not. We do not.

Sen. W. Mark: No way, Mr. Vice-President.

Before I go into what I deal with substantive matters surrounding this issue because “we ha tuh make night into day” because of the total incompetence of this administration.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Failure, failure to generate a legislative agenda so we are here “like headless chicken, just doing thing crazy, crazy” because we have no agenda from the Attorney General.

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

Sen. W. Mark: Yes?

Mr. Vice-President: Have a seat for me, please. All Members, kindly keep the respect and tone of the Standing Orders for the rest of the evening.

Sen. Roberts: What Standing Order is that, Sir?

Mr. Vice-President: The Standing Orders for the rest of the evening.

Sen. Roberts: Or.

Sen. W. Mark: Yeah, all right. No, well I am not shouting, Sir. I am very passionate. And you know why? You know why?

Hon. Senators: [*Desk thumping*]

Sen. Roberts: Because we do not trust them.

Sen. W. Mark: I do not like injustice, I do not like unfairness.

Sen. Roberts: Yeah, yeah.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And the Government is seeking to take advantage of these lawyers because they believe that they have no representation.

Hon. Senators: [*Desk thumping*]

Sen. Roberts: Correct.

Sen. W. Mark: Mr. Vice-President, I want to make it very clear, I want to make some preliminary points and I want to deal with some matters in a more detailed way, just now they are going tell me “they cyah hear meh”.

Sen. Roberts: “You talk man. It is ah democracy.”

Sen. W. Mark: Mr. Vice-President, this attempt at undermining, weakening, seeking to destroy the Civil Law Department comprising of the Solicitor General’s Department, the Chief State Solicitor and now conveniently formerly located here, the Registrar General’s Department. But you know what the AG has done through his consultants? He has now migrated out of the Civil Law Department, the Registrar General. So the Registrar General is no longer under the Civil Law Department. And you know what the Attorney General is telling us in this Parliament? He got a report from the former Retired Judge Stanley John, ably supported by the former Executive Administrator of the Courts.

Sen. Roberts: Was that a paid report?

Sen. W. Mark: Yes, the Attorney General has to tell us whether Christie-Anne Morris-Alleyne was paid for her services and tell us how much money she was paid and why her report is secret.

Sen. Mitchell: “You is the tax man?”

Sen. W. Mark: No, I am not only the tax man, I am the axe man too. “Yuh understand?”

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

7:30 p.m.

So, Mr. Vice-President, here is what we want to clarify very early from this Attorney General and his lame duck Government. Mr. Vice-President, what I would like to ask, first of all, through you, to the Attorney General, is this. Was there, and I am asking questions, “eh, I eh start to accuse anybody as yet eh”.

Sen. Roberts: Not yet, tomorrow—

Sen. W. Mark: I am coming at that, so I am asking questions first—

Sen. Lyder: Come clean.

Sen. Roberts: Not tonight.

Sen. W. Mark: Mr. Vice-President. I want to ask the first question. Was there a breach in the separation of powers principle when this executive administrator was consulting, preparing, and meeting and discussing with the workers in the two departments while she was a member of the Judiciary?

I would like the Attorney General to tell this country if there was a breach in the separation of powers. Because there are three organs of the State. There is the Legislative or the legislator, Parliament, and there is the Executive, headed by the Prime Minister and the Attorney General because they form the Government—

Sen. Roberts: For now—

Sen. W. Mark:—and then there is the Judiciary. I am hearing from the Attorney General, and I have evidence here that this in-court executive administrator only left the Judiciary on the 7th of February 2024. Only a few months ago, but we understand she was on the compound of the Attorney General, working on behalf of the Attorney General, in restructuring the offices of both the Chief State Solicitor and the Solicitor General’s Office. So the first question I am asking is whether the Attorney General, when he is speaking, if he could clarify the time period? Was this lady holding meetings in the month of May last year? Was she a

member of the Executive? Whether she was holding meetings with the workers, with the lawyers, so we want the Attorney General to clear the air.

Sen. Gopee-Scoon: [*Inaudible*]

Sen. W. Mark: No, I am saying this right here for you to hear. You have to account for money.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: You must account for the money.

Sen. Roberts: Correct—

Sen. W. Mark: So, Mr. Vice-President, that is the first question we want to ask. This temperature that is building up in that office has not been building up now, you know. John Jeremie, the former Attorney General, tried to undermine and tried to mash up. They tried to integrate, they tried to fuse. The same merger, Mr. Vice-President, that we have before us John Jeremie and his team, led by the same lady, this same Morris-Alleyne, like a constant star.

Sen. Roberts: Like a rat—

Sen. W. Mark: She is like the northern star, she is constant. She was there in 2006.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: She was there in 2008. She is there in 2024, and the objective has remained the same. They want to undermine. They want to compromise, and they want to destroy the Solicitor General's department.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is what they did. The only reason, Mr. Vice-President, they were stopped in their tracks is because the masses voted for the People's Partnership Government in 2010.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And before they got back into power in 2010 and they are now there in 2024, they are fast at work trying to undermine and destroy those two units, our departments.

Mr. Vice-President, I want to ask the Attorney General whether the Public Procurement and Disposal of Public Property Act was breached by the Attorney General's Office when he employed this consultant. We ask the Attorney General to tell this country if he contributed to the violation of the Public Procurement and Disposal of Public Property Act since this lady, Morris-Alleyne, was an executive at the time and working as a consultant with the executive at the time. Mr. Vice-President, so we want to know that because she was employed, according to information reaching me, and I call on this lady to publicly confess to the nation whether she was employed at the time in the Judiciary while she was conducting consultancy for the Attorney General. Let her come out publicly and state.

Mr. Vice-President, we also want to find out from the Attorney General—we have a copy of the 117th Report of the SRC. The 117th Report of the SRC does a complete reclassification of the offices that the Attorney General is now seeking to alter and change through the legislation that is before us, and as far as I know, under section 140 of the Constitution, the only institution under our Constitution directed by the President, which is the Cabinet, to deal with terms and conditions for office holders like ourselves and those public officers, the DPP, and Solicitor General, Chief State Solicitor, Registrar General, is the SRC.

So how can the AG come here and give us a report from Stanley John, with the greatest respect? I know him, I respect him.

Sen. Roberts: Good for you—

Sen. W. Mark: How can he give us a report or say that something was done by this lady, Morris-Alleyne? We do not have any evidence, no information, no

report, but you want to change people's titles. Brothers and sisters, hon. Vice-President, let me tell you something, I have some industrial relations training. It is unacceptable. It is indefensible. It is inexcusable to abolish people's offices the way they are doing it. It is an infringement of elementary basic industrial relations practices and principles. You do not do that.

Sen. Roberts: The PNM could do that.

Sen. W. Mark: That is what the AG is doing.

Sen. Lyder: "It have court for dat.

Sen. W. Mark: His agents. Listen, the former Attorney General when he was there, Mr. Vice-President, he had—This lady, I do not know what influence she has over attorneys. Oh my God, Mr. Vice-President, if the lady says jump, they say, "How high Master." This is what happened with the former and this is what is happening with the present. I thought the Minister of Public Administration would have spoken out against this matter. The reason being that there is something called the Public Management Consulting Division. Any kind of restructuring, any new kind of classification system that are being—any new functions, new titles—they want to restructure, they have to come to the PMCD for directions.

They have bypassed the PMCD.

7.40 p.m.

Sen. Lyder: Where the PMCD?

Sen. W. Mark: And who is doing it, Mr. Vice-President, you know who is doing it? Justice Stanley John. I did not know he took over the role of the SRC. I did not know Justice Stanley John is the new chairman of the Salaries Review Commission that deals with reclassification. I did not know that, Mr. Vice-President. So where does he get that power from?

Sen. Roberts: These people mad, you know. This PNM— [*Inaudible*] mad, “allyuh really mad”.

Sen. W. Mark: And where does Morris-Alleyne—

Sen. Roberts: “Allyuh really mad.”

Sen. W. Mark:—get this power to do, Mr. Vice-President, what is being done.

So, Mr. Vice-President—

Sen. Roberts: You hearing this? You “doh” even know.

Sen. W. Mark: Mr. Vice-President, let me indicate something to you. Hear what they are proposing. They are saying in terms of amending the legislation to bring these new offices into being, there is something called the Chief State Solicitor. Mr. Vice-President, that is a brand, any Commonwealth country you go in, Mr. Vice-President, you hear about these things, these offices. You go to the United States, you hear about the Solicitor General, you go to Belize, you go to Jamaica, you go to Singapore, you go to Hong Kong, you go to New Zealand; why is the Attorney General and his gang seeking to abolish these offices? Why are they trying to change the names? What is the purpose? And not only that, Mr. Vice-President, why are you seeking to merge?

Sen. Roberts: They want to control.

Sen. W. Mark: That is the issue.

Sen. Lyder: Yes!

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: They want to control.

Hon. Senators: [*Continuous desk thumping*]

Sen. W. Mark: Mr. Vice-President, they want to control. But to control they must first destroy, they must first undermine.

Sen. Lyder: Then consolidate.

Sen. W. Mark: That is what they want to do and then consolidate. That is what they want to do.

Sen. Roberts: Playbook of the PNM.

Sen. W. Mark: It is the playbook of the PNM.

Sen. Lyder: And then blame Kamla.

Sen. W. Mark: Mr. Vice-President, so hear what they did. In the Constitution under I think section 111—if am not mistaken—the titles of some critical officeholders are located there: DPP, Chief State Solicitor, Registrar General, the Chief Solicitor General. They know if they want to change that name to Chief State Attorney, they have to come for a Constitutional amendment. Because it is enshrined in section 111 of the Constitution. So, you know what they did? They left it alone. So, where that is located in the Constitution, the Deputy Solicitor General is not there. So that is why, Mr. Vice-President, they have gone from Deputy Solicitor General to Deputy Chief State Attorney. What the hell is that?

Sen. Lyder: [*Laughter*]

Sen. Lezama-Lee Sing: “Eh-eh!”

Hon. Senators: [*Crosstalk*]

Sen. W. Mark: Sorry, Mr. Vice-President, I withdraw that, I withdraw it and I apologize to you.

Sen. Roberts: “You doh say nothing, eh.”

Sen. W. Mark: Yeah. What is this? I have seen no job description.

Sen. Roberts: Correct.

Sen. W. Mark: I have seen no kind of indication as to what this new Deputy Chief—

Sen. Roberts: Exactly.

Sen. W. Mark:—is going to be doing, Mr. Vice-President. But that is what they

have introduced here, right?

Sen. Roberts: It is a deputy official for Rowley.

Sen. W. Mark: And so, they are doing these things, and the people who are going to feel the heat would be the people of Trinidad and Tobago. Mr. Vice-President, do you know under the rubric of the Office of the Solicitor General, which is now being integrated and amalgamated with the Chief State Solicitor, the Solicitor General is the second adviser, legal adviser to the Government? Do you know that?

Sen. Lyder: What?

Sen. W. Mark: And the first one is the Attorney General.

Sen. Lyder: So they are trying to bring all together.

Sen. W. Mark: So in other words, Mr. Vice-President, that office is very critical and all the offices that fall under the Solicitor General are absolutely essential. You know what? They protect and safeguard our constitutional rights and freedoms.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That is a very important role and function of the Solicitor General's office and that office holder. They go to court to fight matters that are brought, Mr. Vice-President, against the Government and the people of T&T. They are in court, they are not instructing attorneys as you find in what is called the Chief State Solicitor's office. They are advocates, they go into courts. So you know what the AG and them are planning to do? You know what is the trick, Anil? Sen. Roberts, you know what is the trick? Undermine, weaken, discourage, frustrate, run them out of town, and then the fellas who get silk recently, huge briefs.

Sen. Lyder: "Ahhh."

Sen. Roberts: “Yeahhh.”

Sen. W. Mark: Huge briefs.

Sen. Lyder: “Ahhh.”

Sen. W. Mark: Huge briefs. So what will happen, Mr. Vice-President, is that the Attorney General is presiding over the destruction of another important institution in our nation. That is the Solicitor General’s Department.

Sen. Roberts: Shame.

Sen. Lyder: Wow, wow.

Sen. W. Mark: And we want to make it very clear, Mr. Vice-President, that we are not in favour. We call on the Attorney General—

Sen. Roberts: To withdraw this nonsense.

Sen. W. Mark:—to withdraw this Bill, to refer this Bill if he does not withdraw it, to either a joint select committee or a special select committee. Let us hear, not from you, the Attorney General, we do not trust you, we want to hear from the lawyers, we want to hear from the workers—

Sen. Roberts: Yes.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We want to hear from all of those persons, Mr. Vice-President, who are affected as a result of this matter.

Sen. Lezama-Lee Sing: Mr. Vice-President, on a point of order, please. Standing Order 46(4). The Member is persisting in using insulting language and inappropriate language in this Chamber.

Sen. Roberts: We do not trust him.

Sen. Lyder: “We doh trust him.”

Mr. Vice-President: Senator, Senator. As you continue your contribution, just temper the language a little bit so that you may—

Sen. Roberts: [*Inaudible*]

Mr. Vice-President: I am on my legs, Mr. Roberts. Just temper your language a little bit and your tone. Thank you.

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

Sen. Roberts: But we “doh” trust him.

Sen. Lyder: We “doh” trust him.

Sen. W. Mark: So—

Sen. Roberts: “He lie on affidavit.”

Sen. W. Mark: Yeah, so, Mr. Vice-President, what we are saying—

Sen. Roberts: I “doh” understand.

Sen. W. Mark:—we are saying when we look at this matter very, very closely, we are concerned, we are very, very concerned, and the Attorney General did indicate earlier that he was appalled at what was said in another place. But, you know, the workers—of course, the AG got a letter, he put it on record, somebody supporting what the AG—well, not supporting but indicating that what went on, he did not support.

Mr. Vice-President: Senator.

Sen. W. Mark: Sir?

Mr. Vice-President: It just has a Procedural Motion to attend to. Leader of Government Business.

PROCEDURAL MOTION

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Thank you, Mr. Vice-President. Mr. Vice-President, in accordance with Standing Order 14(5), I beg to move that the Senate do continue to sit until 1 a.m. or until the completion of the business at hand, whichever comes first.

Question proposed.

NOES

Mark, W.

Roberts, A.

Nakhid, D.

Lyder, D.

Lutchmedial-Ramdial, Mrs. J.

Vieira SC, A.

Teemal, D.

Thompson-Ahye, Mrs. H.

Hutchinson, Prof. G.

Patasar, Dr. S.

[MR. PRESIDENT *in the Chair*]

Maharaj, Ms. S.

Francis, H.

Hon. Senators: [*Crosstalk*]

Mr. President: Okay, okay Members, please, there is a division taking place and I have repeatedly stated that this is a very important part of the procedure and we need to hear every single vote. Continue clerk.

Division continued.

Richards, Dr. P.

[*Sen. Dr. Dillon-Remy waves hand*]

Sen. Roberts: Dr. Dillon-Remy is here.

Sen. Dr. Dillon-Remy: Dr. Dillon-Remy is here.

Mr. President: Clerk, clerk.

Division continued.

Dillon-Remy, Dr. M.

Hon. Senators: [*Interruption*]

Mr. President: Members, again, please allow me to complete the Procedural Motion that is now taking place.

[*Sen. J. John enters the Chamber*]

Sen. Lyder: Sen. John is here.

[*Mr. President confers with clerk*]

Mr. President: Hon. Senators, this Senate will now stand suspended for 15 minutes.

7.54 p.m.: *Senate suspended.*

8.40 p.m.: *Senate resumed.*

ARRANGEMENT OF BUSINESS

(Agreement Between the Benches)

Mr. President: Hon. Senators, the results of the division before the suspension is as follows: 15 Senators voted for and 14 Senators voted against. However, pursuant to Standing Order 117, there has been an agreement by the Benches. I shall just read Standing Order 117 for the edification of all Senators:

“Where agreement has been reached by leave as the President between the Benches with regard to the transaction of any of the business of the Senate for any sitting or period, such agreement shall be announced in the Senate by the President and the President shall, the provisions of these Standing Orders notwithstanding, conduct such business in accordance with the terms of the said agreement.”

I will call on the Leader of Government Business now to indicate what that agreement was. Leader of Government Business.

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Thank you, Mr. President. Pursuant to Standing Order 117, there was

agreement between the three Benches, in consultation with the Leader of Opposition Business, and the Coordinator of the Independent Bench, Sen. Dr. Paul Richards, whereby we will today, at this Sitting, begin and complete debate on the AJIPA Bill. We will begin and complete debate on the National Instrument Bill, and we would adjourn the current miscellaneous provisions Bill at this point.

Mr. President: Okay. So, hon. Senators, you have heard what the agreement has been between the Benches, and pursuant to Standing Order 117, we shall proceed as such. Leader of Government Business.

**MISCELLANEOUS PROVISIONS (JUDICIAL AND LEGAL SERVICE)
BILL, 2024**

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, in accordance with Standing Order 48(1), I beg to move that the debate on the Miscellaneous Provisions (Judicial and Legal Service) Bill, 2024, be adjourned.

Hon. Senators: [*Desk thumping*]

Question put and agreed to.

**ADMINISTRATION OF JUSTICE
(INDICTABLE PROCEEDINGS) (AMDT.) (NO. 2) BILL, 2024**

Mr. President: Attorney General.

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 Constitution of the Republic of Trinidad and Tobago; the Judicial and Legal Service Act, Chap. 6:01; the Children Act, Chap. 46:01; the Patents Act, Chap. 82:76 and the Legal Profession Act, Chap. 90:03 with respect to the administration of the Ministry of Legal Affairs and for related matters, be now read a second time.

Mr. President, the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011) is an Act that we have spoken to often in the last eight months or more. It is an Act, as we know, which has, from proclamation, abolished preliminary enquiries and introduced a new system by which summary and indictable matters are to be accomplished in a more expeditious manner. One of the material sections of the indictable proceedings Act, which I will refer to for convenience as AJIPA, is section 33 of that Act, which provides:

“(1) The Indictable Offences (Preliminary Enquiry) Act and the Indictable Offences (Committal Proceedings) Act, 2014 are repealed;

(2) Notwithstanding subsection (1), the Indictable Offences (Preliminary Enquiry) Act shall continue to apply to proceedings which were instituted prior to the coming into force of this Act where no order is made under section 32A.”

The consequence of that AJIPA Act having, therefore, been proclaimed, is that preliminary enquiries, save in the limited respects to which they are saved by that Act, come to an end. We have, however, Mr. President, the extradition Act. And by section 12 of the extradition Act, that is, provides:

“(1) A person arrested in pursuance of a warrant issued under section 10 and in respect of whom no order under section 11(2) has been made shall [unless previously discharged under section 10(3)], be brought as soon as practicable before a Magistrate.

(2) For the purposes of proceedings under this section a Magistrate shall have the like jurisdiction and powers, as nearly as may be, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, as when the Magistrate is acting at a preliminary enquiry.”

So we are faced with a situation which has been brought to my attention, Mr. President, because there are actually a couple cases in the Magistrates' Court now, in which the point has been taken that, because the AJIPA Act has repealed the preliminary enquiry Act, the magistrate has no jurisdiction under the extradition Act to function as if acting at a preliminary enquiry.

It is arguable that that is not the case and that the extradition Act stands on its own and arguments are currently being made in the courts to that effect. But it is equally arguable that a magistrate may not purport to exercise preliminary enquiry functions, because that jurisdiction has been repealed by AJIPA. We cannot take the chance of that lacuna continuing to exist, given that there are pending proceedings before the court in which fugitives, who are about to be extradited, could succeed in persuading the magistrate on an argument that the magistrate has no jurisdiction to have them before him or her.

And for that reason, Mr. President, we have brought before this Chamber a one paragraph Bill, that is to say, the Bill before the Senate this evening, to amend the AJIPA Act. And by clause 3 of that one paragraph Bill, we wish simply to add two further subparagraphs to the section that I have already read, section 33. So clause 3 of the Bill says:

“Section 33 of the Act”—that is to say the AJIPA Act—“is amended by inserting after subsection (2), the following subsections...”—that is to say:

- “(3) Notwithstanding subsection (1),”—and that is the section which repeals AJIPA, and the section 35(2)—“the Indictable Offences (Preliminary Enquiry) Act shall have effect for the purposes of the Extradition, (Commonwealth and Foreign Territories) Act;
- (4) Subsection (3) is deemed to have come into operation on the 12th December, 2023.”

That is the date on which AJIPA was proclaimed.

So, in summary, Mr. President, we are asking this Chamber, on an urgent basis this evening, simply to save the continued function of magistrates under the extradition Act by passing the amendment to section 33, which I just read, and that is to say, notwithstanding the repeal of the preliminary enquiry Act, magistrates shall continue to have jurisdiction for the purposes of the extradition Act under that Act. Therefore, we are saving the continued operation of the preliminary enquiry Act from December, to continue to be exercised under the extradition Act.

I do not think I need to explain it in any further detail, Mr. President. Therefore, in those circumstances I beg to move.

Question proposed.

Mr. President: Sen. Mark.

Sen. Wade Mark: Mr. President, as the Attorney General explained, this Act to amend the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No.20 of 2011) is required to address what can only be described as an oversight or lacuna in the legislation, even though we have had six to seven amendments to this particular Administration of Justice (Indictable Proceedings) (Amdt.) Act. And yet still, even though it was proclaimed on the 12th of December—I think that is the date I am seeing before me, sometime in December of 2023—unfortunately, the provisions needed to save and to ensure, Mr. President, that preliminary enquiries under the Extradition (Commonwealth and Foreign Territories) Act continue, so that, not only there will be justice, but there will be equity and fair play in this whole exercise. So I do not think there is any need to detain this honourable Senate. I think it is an amendment that is required, has been recognized as needed to address this loophole in the law that could have had severe consequences later on.

8.55 p.m.

So, we support the amendment to the Indictable Proceedings Act. That is, the preliminary, if I may say, Mr. President. The Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011), we support the amendment to that legislation, to address the areas as outlined by the Attorney General. Thank you very much.

Mr. President: Sen. Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira: Thank you, Mr. President. As the hon. Attorney General has pointed out, the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011), repealed and replaces the Preliminary Inquiry Act. But, proceedings under the Extradition Act, referenced committals under section 12, and at form 6, as when the magistrate was acting under a preliminary enquiry.

This legislation is essentially procedural, aimed at ensuring that processes remain consistent. So, I agree with both the hon. Attorney General and Sen. Mark, that there should be no procedural lacunas in our legislation. This amendment will help reduce errors and would lead to more reliable outcomes and of course, it upholds the principle of justice for all. I thank you.

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 rise to complement my fellow Senators, Sen. Wade Mark, on behalf of the Opposition Bench, and Sen. Vieira, on behalf of the Independent Bench, and to thank them for the collaboration, that we have been able to work at, this late hour of the evening. And, I say only one further thing, and that is, that the advice which was given to me, which caused me to bring this legislation, has the support and the advice of the

Director of Public Prosecutions. 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.

Senate in committee.

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.

Mr. President: Minister of Tourism, Culture and the Arts.

Hon. Senators: [*Desk thumping*]

NATIONAL MUSICAL INSTRUMENT BILL, 2024

Order for second reading read.

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Mr. President. Mr. President, I beg to move:

That a Bill to provide for the designation of the steelpan as the National Musical Instrument of the Republic of Trinidad and Tobago and for related matters be now read a second time. Mr. President, it is indeed a privilege to me, to serve as the Minister with the responsibility for culture, to pilot this Bill, on this historic occasion. Mr. President, the Bill, while of great national and cultural significance, is a simple one. It seeks to designate the steelpan, using the Parliament, using legislation, as the national musical instrument of Trinidad and Tobago. The preamble to the Bill, confirms the commitment of the Government towards developing, safeguarding, and promoting culture and the arts, and sustainably strengthening the cultural sector. It then delves into the history of the steelpan, and

the need to give formal recognition to the fundamental value of the steelpan, as it belongs to the Republic of Trinidad and Tobago, and its citizenry.

Mr. President, the Bill contains four clauses as follows: clause 1 and 2 of the Bill provide for the short title and interpretation section of the Bill. Clause 3 seeks to declare the steelpan as the national instrument of Trinidad and Tobago. Clause 4 will require the Minister, to whom the responsibility for culture is assigned, to prepare and lay in Parliament a biennial report on the recognition, status, promotion, development, and impact of the steelpan at national, regional, and international levels.

Mr. President, now that we understand what the Bill is purporting to do, I will now add some context, as to why this is necessary, and why this Bill, is the legal framework to designate the steelpan as the national musical instrument. On July 4th, 2012 the World-renowned British Broadcasting Corporation, the BBC network, reported:

“Amid the electronica of 20th Century music one new instrument stands out for its simplicity. The steel pan, possibly the only instrument made out of industrial waste, has become an icon of Trinidadian culture.”

Eleven years later, on July 24th, 2023, following a resolution put forward to it, the United Nations at the 77th Session, of the United Nations General Assembly in New York, officially declared the 11th August, as World Steelpan Day. Mr. President, these are just some of the international strides, and global recognition of our revered instrument the steelpan.

Mr. President, this instrument serves as an important thread in our cultural tapestry, and weaves together our diverse identities and experiences. A central element of both our tangible and intangible heritage, culture is not merely a collection of artistic practices, but a system of shared values, imagination, and

ideologies derived from those artistic expression. This system of shared values creates social cohesion, and fosters a sense of community. This system recognizes the importance of people in shaping and preserving or nation's cultural identity.

Mr. President, I recently attended the launch of a book, on the history of Trinidad All Stars Steel Orchestra entitled: "Mettle and Metal", written by Bukka Rennie. During which, Mr. Eddie Hart, former Member of Parliament for Tunapuna, spoke, giving an inspiring story about his experience as a young man, joining the All Stars Steel Orchestra. His story was one of a young boy finding community, and mentorship, which helped him transition into adulthood, and himself becoming a leader, and mentor in that band. This story is a common one that is replicated across many pan yards across the country.

Mr. President, the preservation and promotion of the nation's culture, is the collective duty of its citizens led by the Government, which creates and enabling environment for culture to flourish.

By understanding, appreciating, and preserving our own culture, we not only strengthen our sense of identity and continuity, but we also foster greater understanding and respect for the cultural diversity that exists within and beyond our national borders.

9.05 p.m.

Mr. President, despite its international proliferation, the genealogy of the steelpan traces and roots back to its cradle of Port of Spain, Trinidad, as an indigenous and principal acoustic musical instrument of Trinidad and Tobago forged on this country's soil. The official birth of the steelpan prevailed in the 1930s and 1940s, and it is heralded as the only invention of a new family of acoustic musical instruments in the 20th Century. The genesis of the steelpan is deeply rooted in both struggle and celebration, oppression and innovation.

Steelpan represents an unwavering commitment to freedom and cultural self-expression in the Trinidad and Tobago context that directed the innovative energy of our people towards the creation of this extraordinary musical instrument.

An intrinsic part of this story is the remarkable individuals who played pivotal roles in the creation and advancement of the steelpan. It is therefore imperative that we acknowledge their contributions on this landmark occasion where we intend to enshrine the steelpan as our national musical instrument through this legislation. Among these notable figures are Winston “Spree” Simon, Ellie Mannette, Anthony Williams, Neville Jules, and Bertie Marshall, distinguished for their prowess as steelpan creators and players.

Winston “Spree” Simon, a native of Trinidad and resident of John John is renowned for his role in the development of the ping pong—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—which became the tenor pan of today. Ellie Mannette introduced the innovative concept of the concave sinking into the steelpan’s surface—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—departing from the traditional convex approach, thereby contributing significantly to steelpan evolution. Anthony Williams stands out for his multifaceted contributions to the steelpan, excelling as an inventor, tuner, innovator, and esteemed performer. He is widely revered as one of the foremost figures in the history of the instrument.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: Mr. President, and of course, the steelpan movement would not be as we know it today without the well-known bomb competition and the concept of the bomb tune created by Neville Jules.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: The steelpan is thus authentically Trinbagonian and deeply emblazoned within our history. Equally, we must consistently strive to not merely venerate our steelpan, but also to rebrand it as uniquely Trinidad and Tobago. The steelpan continues to be a source of wonder and national pride for our nationals and our diaspora. Today, the instrument is a mainstay of this country's annual Carnival celebrations and has been adopted, manufactured, sold, and generally celebrated not only locally but also internationally, with steelpan competitions and events taking place on all continents across the globe. Contemporary pioneers such as Len "Boogsie" Sharpe, Duvone Stewart, Leon Smooth-Edwards, Ainsworth Mohammed and Kirsch Ramsey, continue to advance the work of their respective steel orchestras.

Mr. President, this Bill, once assented to, will provide the long-awaited recognition for the efforts of these steelpan innovators, pioneers, and the steelband movement, reshaping our steelpan from the de facto into the du jour national instrument. While acknowledging the achievements of those nationals who develop, use, and promote the instrument, it is a very important exercise. The steelpan emerged from the grassroots, many of whom toiled without financial reward or the guarantee of recognition. This legal commendation will therefore also serve to acknowledge those who laboured tirelessly, continually breathing new life into our versatile instrument, elevating its status and disseminating its artistry around the world.

Mr. President, it has long been the policy of Governments past and present to have the steelpan designated the national musical instrument of Trinidad and Tobago. In 1992, under the PNM, the then Minister of Community Development, Culture and Women's Affairs, recommended to Cabinet that the steelpan be

declared the national instrument and recognized as a national treasure of Trinidad and Tobago. In that same year, the late Patrick Manning, then Prime Minister, declared the steelpan as a national musical instrument during his Independence address. But notwithstanding these recognition efforts, the legal declaration of the steelpan as our national musical instrument remains unrealized.

Mr. President, the Bill before us today was not created in a vacuum. This Bill and the policy which informed it were created and crafted in close consultation key stakeholders, including but not limited to the world governing body, Pan Trinbago, Steel Pan Academics, Dr. Mia Gormandy from the University of Trinidad and Tobago, as well as other stakeholders in the steelpan industry. And at this time, I say a special thank you to the executive and the president of Pan Trinbago, Mrs. Beverly Ramsey-Moore—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: Mr. Henry Harper, from Petit Valley—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—and of course Mr. Martin Daly, SC, a pan enthusiast and the legal advisor to Pan Trinbago—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—for the continued advocacy and for the recognition of steelpan as the national musical instrument.

Mr. President, over the years, there has been consistent clarion call by key stakeholders within the steelpan fraternity and the public at large to have the steelpan designated as the national musical instrument of Trinidad and Tobago. A few of these calls. In a letter to the editor in the *Guardian* newspaper on the 25th of January 2022, submitted by Henry Harper, entitled:

Pushing Pan Forward

He wrote:

It is time for the national community to push pan forward in order to ensure that the powers that be recognize its true value by having it proclaimed our national musical instrument.

On the 10th of August, 2023, a *Daily Express* editorial entitled

“Let’s Proclaim the Pan as Ours”.

In it, it wrote:

“The pan is indeed the source of our magical ability to move beyond despair by creating something out of seemingly nothing. To rebuild our shattered confidence, we must tap into the power of the pioneers who gifted us the pan. We can start with the bold proclamation that the pan is indeed officially ours.”

On the 11th of September, 2023, at the ceremonial opening of the Fourth Session of the Twelfth Parliament, our own Head of State, Her Excellency, called for the steelpan to be recognized as a national musical instrument of Trinidad and Tobago, when she stated:

“...my hope is that Parliament will, in that vein, pull together to enact laws that are even more reflective of our society’s goals and vision – including in relation to legislation that both protects and advances culture and the arts. In particular, I hope that it will be seen fit for there to be an urgent Parliamentary intervention that results, at long last, in the steelpan being firmly and irrevocably declared our national instrument. Those in the industry will tell you that giving the steelpan formal and official ‘national instrument’ status is critical to opening doors for the industry in international markets. The General Assembly of the United

Nations has formally recognized the universal value and significance of the steelpan. I believe that it is high time that we formally do the same.”

That is what we are here to do today, Mr. President. And of course, on 26th October 2023, our own Senator, Sen. Maharaj, filed a Motion which provided, among other things, that:

“Whereas citizens widely revere the Steelpan as the national musical instrument of Trinidad and Tobago, yet the recognition of the Steelpan as the national musical instrument of Trinidad and Tobago has not been codified in law.

Be it resolved that the Steelpan be declared the national instrument of Trinidad and Tobago.”

Mr. President, now more than ever, the nation has arrived at a juncture wherein it is primed to focus our attention on the cultivation and enrichment of its cultural landscape to safeguard the legacy acquired. This endeavour is in harmonious accord with the overarching objectives of *Vision 2030* and the National Cultural Policy, embracing our traditions, honouring the artistry and craftsmanship that moulded our musical landscape, therefore creating opportunities to foster economic diversification. The designation of our national instrument marks a vital moment in our nation’s journey towards celebrating and preserving our identity.

Mr. President, the Bill will significantly enhance our international marketing strategies for the steelpan, as well as for our local culture generally, helping us to truly and unapologetically exploit the power, allure, and mystique of our musical instrument. This is critical given the

instrument's versatility, its current international recognition and immense commercial potential as a desired instrument for musical performances and education.

Endorsing the steelpan as the national instrument of Trinidad and Tobago through legislation will also serve to market the steelpan fraternity, carnival, and by extension all of Trinidad and Tobago's culture. The designation of the steelpan as our national instrument will increase the opportunities for strategic investments and intensify penetration in the highly competitive global, cultural and creative market.

In addition, this designation has the potential to act as a catalyst for the increased production, promotion, distribution and commercialization of our national instrument, which will redound to the benefit of our citizens. The declaration as our national instrument will once and for all remove any doubt that Trinidad and Tobago is indeed the home of the steelpan.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: Mr. President, once assented to this Bill has the potential to raise the profile of Trinidad and Tobago. Studies have shown that the possession of indigenous instruments promotes tourism development, economic growth, and the distinctive global recognizability of nations.

Once such study in 2020 entitled: "The Role of Traditional Music in Tourism Destination Development" concluded that:

"Traditional music is an endless source that can be tapped to develop event and experience tourism and, in particular, heritage tourism."

Several prominent instances of employing traditional music in tourism are evident

in various regions. Notable examples include, Ireland, renowned for establishing a robust tourism image rooted in traditional Irish music. Austria celebrated for its alpine traditional music and Canada, particularly Cape Breton Island where Celtic traditional music holds significance. While traditional music forms and integral part of the local residents' identity, it offers tourists novel experiences and opportunities to immerse themselves in the traditional values of the destination they are exploring.

Mr. President, throughout the globe, national musical instruments have reinforced the connection between indigenous instruments and music-based tourism, and supports a country's unique selling proposition of possessing a unique and distinctive culture. Mr. President, allow me to revisit clause 4 of the Bill, which is a critical feature, and that is the inclusion of a mandatory reporting mechanism by the Minister to whom the responsibility for culture is assigned. The legislative requirement for the preparation and submission of reports to this Parliament is a tried and tested avenue for accountability and oversight.

Once this Bill is passed, the responsible Minister is statutorily mandated to produce a biennial report to this Parliament, which will contain key updates on steelpan development, including its recognition, status, promotion, development and impact across the national, regional, and international levels.

9.20 p.m.

This statutory reporting mechanism will provide accountability, transparency and enable Parliamentary scrutiny in all steelpan related affairs on a worldwide scale to our citizenry, while enabling legislative oversight on the progress and developments secured for our national instrument.

Last but certainly not least, Mr. President, this Bill once placed on our national books, will secure preservation of the sociocultural and historic

development and significance of the steelpan. The declaration of the steelpan as the country's national musical instrument will firmly acknowledge the pivotal role that the steelpan has within our musical history ensuring that Trinidad and Tobago is indelibly recognized as the indisputable home of the steelpan and acknowledging steelpan's contribution to the world of music.

Mr. President, we have listened and responded to the repeated entreaties of our steelpan producers, tuners, our jurists and legal luminaries, our historians, other stakeholders, but most importantly, our citizens, in heeding the call towards the legislative declaration of the steelpan as the national musical instrument of our twin island republic.

Hon. Senators: [*Desk thumping*]

Hon. R. Mitchell: This Bill will statutorily codify the universally accepted fact that the steelpan is a product of our own people's innovation and a significant element of cultural heritage. Mr. President, I beg to move.

Hon. Senators: [*Desk thumping*]

Question proposed.

Mr. President: Sen. Nakhid.

Hon. Senators: [*Desk thumping*]

Sen. David Nakhid: Mr. President, once again, in the name of God, most gracious, most merciful. Mr. President, I must say this is the first time that I have been disappointed in the Minister of Tourism, Culture and the Arts—well, the second time in two days actually. Because I listened in the other House after—on television, and after a brilliant presentation by the MP for Moruga/Tableland, after she really went in heart and soul. Because when you are talking about pan, it is not to come here with five pages and just read for 40 minutes. It is to talk about pan from your heart, from your soul.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: I am not writing a note, Mr. President, because I was born into pan. The Minister came and spoke about pan and did not mention Laventille once.

Hon. Senator: He did once.

Sen. D. Nakhid: Once he mentioned it?

Hon. Senator: Just once.

Sen. D. Nakhid: Well, how he could mention Laventille and not mention Laventille Desperadoes? Laventille? No? And more so than that, he did not mention the premiere innovator in pan: the hammer, Rudolph Charles.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: So I must admit to missing some of the presentation as I was praying, but when I listened to this sterile, non-creative submission on what is supposed to be something that stirs not only the soul, but uplifts entire communities, then I have to wonder—well, I do not wonder anymore—on to why the PNM is not only decades late and millions of dollars short in addressing pan as the national instrument. They are decades late and millions of dollars short.

Because we have an instrument that came out of the—as he said, the oppression, the suffering of people in the hill. And I was glad enough to be a 9-year-old, 10-year-old boy, witness to my uncle with the hammer making those pans; double tenor, bucket pan, all his innovations, not one mention of that. Not one mention of that here. Just a sterile—like somebody wrote that for the Minister. So he gave us a historical background, superficial by its nature, but not really coming into how the pan uplifted that community that they fail to uplift, that they represented. But that pan held that community together.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Not only Laventille, but along the East-West Corridor. As a

matter of fact, if Laventille is to serve in a socioeconomic way, as a litmus test for this Government, then surely pan is a litmus test to how they have treated culture and the arts which they have abused and mistreated over the course of their entire tenure in Government. I mean, here we are. Who are they fooling when they come here and talking about pan as a national—for us citizens, we know pan is the national instrument.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Not only do we know pan is the national instrument, pan is every Trinbagonian. Whether some of them like pan or not, when they go abroad, Mr. President, one thing they could say: Pan come from Trinbago. One thing they are proud to say: pan come from Trinbago. So if cricket and football, which the English exported to all corners of the world and they like to claim that. They won one world cup but they like to claim they export football, FA. We cannot claim that with pride here.

The Japanese have gone way ahead of us in terms of how they manufacture pans and so. We are playing catch-up. We are playing catch-up with this Government for how we manufacture pans. And who is in charge of that? Let me tell you who is in charge of that. Not in charge of that, are the pan men who suffered in creating what we now call pan. Not the pan men in charge of that. It is businessmen who came in—I do not want to talk about any specific community, but we all know, we all can see. But it is certainly not the people from Laventille. Certainly not the people from east Port of Spain. Certainly not the people up and down the East-West Corridor who suffered under this Government. Let me tell you how. And I will relate it to contemporary times.

I only go for carnival, Mr. President—I only go to the pan—Panorama. My hon. colleague over there helps me with those tickets and I thank him for that. But

I would have you know something. When you go to Laventille Desperadoes pan yard, the greatest pan side in the world—has ever seen, I would give Renegades a second place, together with All Stars.

Hon. Senator: And Phase II.

Sen. D. Nakhid: But we can all admit, when they talk about marketing pan to the world, they are way behind. Laventille Desperados in the '60s with my Uncle Rudolph and Uncle Jerry Walter and Uncle Kenneth Charles were playing in Carnegie Hall in the '60s. They do not even know that.

Hon. Senators: [*Desk thumping*]

Hon. Senator: Preach brother, preach.

Sen. D. Nakhid: They do not even know that! They were making tours to Asia in the '60s and sending us back pictures. Let him google it. Look how he has to google it.

Hon. Senators: [*Laughter*]

Sen. D. Nakhid: They have to google it. They were sending back pictures of them performing in all these majestic halls together with philharmonic orchestras and all of that. They do not even know that. Dressing up nice, meeting kings and queens, royalties.

Sen. Vieira SC: Winifred Atwell.

Sen. D. Nakhid: What is that? Winifred—"Oh, goood!" Sen. Vieira called a name. Winifred Atwell. They know. Every citizen knows. We do not have to wait for them to come and tell us what pan means to us.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Hear what. "The Nakhid family is not no fan of pan, inno. We is pan, inno!"

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: “We not no fan of pan, inno. I doh like pan, inno”, Mr. President, nothing moves me like this. I do not like pan.

Hon. Senators: Nakhid pan.

Sen. D. Nakhid: “I is pan. We is pan.” The only thing my father; that Lebanese man, could have stomached about carnival, I will say it, was pan.

9.30 p.m.

I could only get permission to go and push Despers pan. That is the only thing I had permission to do in Canada. They come here and give us some trivial, historical, superficial overview, a pan and who invent—yes, with respect to Mannette and “Spree” Simon. I know all the names, respect to all of them. But what are we doing for pan now? What are we doing for the panmen now who, when they play pan—you go in Desperadoes panyard, the finest pan side in the world, when you go in the panyard and they finish a set, you see people taking up their pan and running to play in a small or medium-sized band. Why? This Government paying them \$500 for the season. You could believe that?

Sen. Lyder: Shame.

Sen. D. Nakhid: Mr. President, \$500 for panmen and panwomen for the season. “So dem ha tuh pick up dey pan”—so after you listen to the first set—“leh we say dey” started half past eight, they finished by about half past 11—the first set, right?—“dey take ah break”. When you come back half past 12, one o’clock, “half de pan side gone”. You know why? “Dem fellas ha tuh look for it”, the women and “dem” have to look for it in another panyard, Mr. President, to make some money.

So they running from panside to panside to make money, when our pan instrument by now, with proper representation from this Government, who has been in power for over 50-something years, our panmen should be professionals.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: Our panmen should be professionals, “not no” meagre offering, \$500, and just lip service to pan. What kind of stupidity is that? Then they want to talk about fighting crime and having diversification. “Yuh have diversification slapping all yuh in all yuh head”. Right there it is. “Dais it”, pay attention to that. Minister of Trade and Industries, “dais” diversification right there, pan. How we could market that to the world? How we could market it here? How we can make the lives for panmen and panwomen substantive enough that they do not have to be just eking out of living?

I will give them some ideas. Under a UNC Government, every community that has a panside, that panside, after the Carnival is done, they will have to go into those schools, in those communities, and teach them pan in schools—

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid:—not like this Government, who cut pan in schools. They cut funding for pan in schools. How you want to come here and tell us now that you are representing pan? It is really shameful, Mr. President. It is really shameful. I think the only benefit we had from that is from a historical perspective. There was nothing—

Sen. Lyder: Substantive.

Sen. D. Nakhid: Not only substantive, there was nothing profound about it, completely shallow, and I was surprised. I was disappointed in the Minister. I thought he would come and maybe just read, give us a historical perspective and then talk from the heart, but he cannot. He cannot. “And doh come here and try and insult me after, eh”.

Hon. Senators: [*Laughter*]

Sen. D. Nakhid: “I is not Michelle Benjamin, eh”.

Hon. Senators: [*Laughter*]

Sen. Mitchell: I will.

Hon. Senators: [*Laughter*]

Sen. Lyder: “It ha no dairy farm over here, eh. It ha no dairy farm over here, eh”.
Right.

Sen. D. Nakhid: But I feel sorry for the Minister. I will tell you why. He is a Minister in a Government that, really and truly, has never shown any care for the national instrument.

As a matter of fact, they have never showed any care for our creatives in this society, and that is a fact. This is a Government that does not understand the benefit of creatives. If they did, what they will realize is that creatives can mitigate against crime. Creatives can stir, generate employment. They do not understand it. This is a Government—one-trick ponies, I call them; energy, energy, oil and gas, energy, energy, oil and gas, and then lip service to diversification.

Sen. Roberts: Even that they crashed.

Sen. D. Nakhid: They do not understand how tourism can mesh with pan. They do not understand that. So I will give you an example.

Laventille Desperadoes, the greatest panside in the world, were forced to move from their Pan Theatre up the hill because this Government cannot control crime and provide security. So our players, Laventille Desperadoes, the finest panside in the world, our players are afraid to go up the hill. Even those in the community are afraid to go from down in the Quarry, to up in Picton, to over in St. Barbs. They are afraid to come across by Desperlie Crescent. They do not want to come because they cannot provide security. So all of it is meshed, and I think Sen. Maharaj mentioned it in the previous debate.

Crime: That crime is the overriding factor that stunts growth in every sector of the society and they do not understand that. So “dey does” get annoyed when we are always talking about—I think the Member for Diego Martin West said, “Is crime, is crime, is crime,” exactly that. It is crime that stunts growth in tourism, culture and the arts, in sport, in national development, but you do not recognize that. They do not have the intellectual capacity to realize that. We could now use pan, not just in a superficial way—talking about pan like if they came now and reinvented the wheel that is pan.

Mr. President, if I tell you how I have seen pan calm down a whole community. I have seen that my whole life. I will give you an example. It was 1975—no, '76, because we won Panorama that year, Laventille Desperados, the finest pan side in the world. We won Panorama that year. There was trouble on the hill. So when you hear that song from David Rudder, “Where the hammer gone”, I know where the hammer went. I know the hammer is the one who pulled that community together in 1976 and “take dem down de hill and beat everybody tail” in that Panorama because there was trouble.

I will tell you what else pan could do, Mr. President. I watched my uncle—I also watched the founder of their party, Dr. Eric Williams, because he used to come up to Uncle Rudolph’s mom and “tanty” Georgie, he used to come to see Uncle Rudolph.

Sen. Lyder: Real-life stories.

Sen. D. Nakhid: So I am giving you, not hearsay, not what somebody wrote for me, because “I is de” lil boy by Grandma Imelda—because the houses were right next to each other—Grandma Imelda, my grandmother, and the mother of Uncle Rudolph, are sisters. So I was right here watching when the great—according to

them—Dr. Eric Williams came up the hill to see Uncle Rudolph, because any trouble the PNM had with any unions or anybody, “he coming up de hill”, because who could not stop the union? Who could quell that disturbance? Laventille Desperados, the finest pan side in the world.

So he came up to Uncle Rudolph, and I am there. And if you see that famous picture with Dr. Eric Williams walking up the steps and Uncle Rudolph and “Tanty” Georgie waiting for him to come up, I saw that, I was there. I witnessed that picture taken. I was there. So “dey cyah” come and tell me about pan. No matter what they try to throw after or wind up after, they cannot tell me nothing about pan. All they could do is have somebody Google it and have somebody write about it. I could tell them what pan means to Trinidad and Tobago. I could tell them what pan means to the community.

So when they treat panmen with the disregard that they are treating them and they treat with them—\$500 for the season, when under the UNC, back in 2012—2014, was giving panmen \$1,000; back in 2012—2014.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: You would imagine, Mr. President, what progress would have been made, in terms of remuneration, and since the Minister wants to play he is coming hard, I will go even harder. So when panmen are getting \$500, certain people are making \$70,000 a month in pan; \$70,000 a month certain people are making. And you have to ask yourself: What kind of conflict of interest is that? “I ain’t go go hard on him”, I will feel sorry for him. But suffice to say, \$70,000 a month by what they are paying, that is about 140 panmen. Somebody is benefiting in one month, what 140 panmen are getting in a whole season, and they want to come and tell us about pan and they represent pan? Political hypocrisy.

Although we might find some jocularly with it, it is sad. It is sad. Because if that person, that citizen who, when approached about, “Well, how come there is seemingly a conflict of interest as regard to the pan that you were renting, you are the landlord, benefiting \$70,000?”, you know what is the answer from a lawyer—not a SC yet—but from a lawyer? He said, “I asked the President of Pan Trinbago and she said it was okay.” Look at the kind of craziness we are faced with when it comes pan. I read that in the papers, that he asked the President, Beverley Ramsey-Moore, about—

Sen. Hislop: Point of order, 46(1), irrelevance.

Hon. Senators: [*Interruption*]

Sen. Lyder: What do you mean? We are talking about pan.

Mr. President: So—

Sen. D. Nakhid: “Is pan we talking about”.

Sen. Lyder: “Is ah Motion”, you know. It “ha no” clause in this, you know.

Mr. President: All right. So, Member, you are talking about pan and you are talking about the fact that the Minister of Tourism, Culture and the Arts, you know, cannot talk about pan more than you, and you have been saying that quite a number of minutes. So, again, if you have any new points to bring in, bring them in.

Sen. D. Nakhid: Yeah. Well, I will finish this point and go on to others, because that shows you the disregard that the PNM has for pan. It shows you that they come here and talk about—like if we “doh” know the history of pan also, like we “eh” read a book. I am going more in depth to show you the suffering and plight of the panmen that they have disregarded over the course of the pan history. That is what I am showing you.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: This Motion is not enough.

Sen. D. Nakhid: In other words, this Bill or Motion, whatever they brought here, is clearly not enough. They like to come with these things just to satisfy a certain portion of the population, “Yes, we brought that.”

As a matter of fact, I feel they brought this, you know why? I feel they brought this because of the Motion brought by Sen. Sunity Marahaj. I really believe that. They had no intention of recognizing pan. They do not care about pan. They do not care about it. I think that Motion brought by her, by Sen. Sunity Maharaj, spurred this Government to bring this, what they brought here today and, again, it is insufficient. That is what I am trying to show you. I am trying to show you that even the pan instrument that does not have a home—and I will get to that just now—that was granted land, they will come and say, “Well, it was not the name of Pan Trinbago, and it was there,” but it was given. Articles will show that, that Caroni granted that land, under the UNC, to Pan Trinbago, about 13 acres—

Sen. Lyder: Fifteen

Sen. D. Nakhid: Fifteen?

Hon. Senator: Eight, originally.

Sen. D. Nakhid: Eight, originally? Morphed to 13. Then why did they not take it forward if they so like pan? They are in government more than us. They “doh” like to boast about that? We are here, we have to deal with it. They are in government more than us. Why did they not take it forward—

Sen. Lyder: Nine years.

Sen. D. Nakhid:—and then take that land, expand on it? Let me tell you what that could have done and what we intend to do. That land—“not no” lil piece of land by the post office now that they are trying to give and making people feel that that

is sufficient for the home of pan. You have 13 acres. You know what you could do with that? You have an administrative building, you have a pan museum—

Sen. Mark: You have a hotel.

Sen. D. Nakhid:—featured—you have a hotel—

Sen. Lyder: Manufacturing plant.

Sen. D. Nakhid:—tourism, manufacturing, you could do all kinds of things. You can have a place where panmen could go and truly feel they have something. You did not do none of that. So then everything is expeditious, just like they try to run through everything here in the Parliament—and kudos to the Independent Bench and telling them a resounding no, Sen. Vieira. Well done.

Hon. Senators: [*Desk thumping*]

9.45 p.m.

They like to do that with pan. So now if they want to come and talk about pan, clearly pan means nothing to them. Because they could just come, and all of a sudden, find an Indian businessman and grant him that pan land and tell us—

Sen. Lyder: About more inclusion.

Sen. D. Nakhid:—that they had consultations. Well I beg to differ, and I will tell you, what was the submission of one Fuad Abu Bakr and Gulston, when they were asked about it. Well first of all in the JSC, represented by Sen. Roberts, he asked the question to Beverly Ramsey-Moore, President of Pan Trinbago. And she actually was quite mendacious. It reminded me of the Attorney General we have right now. She was quite mendacious. He asked her about that pan—she said they had consultations. Upon further investigation, there was no such consultations at all. Half the pan members—

Sen. The Hon. Mitchell: Mr. President, 46(1) please.

Sen. D. Nakhid:—did not know about those consultations.

Sen. The Hon. Mitchell: Mr. President. 46(1) please.

Sen. D. Nakhid: Very important to listen—

Mr. President: Again. Sen. Nakhid, it is sounding like you are going in circles, in making the point that you want to make. If there is something relatively new that you could bring forward, I invite you to do so.

Sen. D. Nakhid: Mr. President, I do know what could be more new, and more relevant than us discussing—

Sen. Roberts: PNM take the **cake**.

Sen. D. Nakhid:—how the PNM has not only paid lip service to pan, but they have actually taken away the land, granted to pan.

Sen. Roberts: “Yeah”.

Sen. D. Nakhid: I do not understand what is more relevant than that.

Sen. Lyder: You are making it a national instrument, but yuh removing the land.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid:—and then in cahoots seemingly with the President of Pan Trinbago, who obviously was not forthright—parliamentary language?

Hon. Senators: [*Crosstalk*]

Sen. Lyder: Was not forthright.

Sen. D. Nakhid: Was not forthright.

Sen. Lyder: “Yeah”. “Yeah, that is fine.

Sen. D. Nakhid: She was not forthright. She said they had consultations. Upon further investigation, some of the—

Sen. Lyder: Misleading.

Sen. D. Nakhid:—Pan Trinbago members said they were never consulted and they do not agree with what she said.

Sen. Lyder: She was misleading.

Sen. D. Nakhid: That they agreed to give back this land to the Government. No. They never agreed. That was a one-woman decision, one-person decision. That is like when the President told to the hon. Minister, when he asked about it—do I have a conflict of interest in renting out my property to Pan Trinbago? And she told them no, you good. And he was good with that. He was good with that.

Hon. Senators: [*Laughter*]

Sen. The Hon. Mitchell: Mr. President, 46(6)—

Sen. D. Nakhid: “Wey yuh mean”? That was in the papers. No.

Sen. The Hon. Mitchell: —46(1).

Sen. D. Nakhid: No, that was in the papers.

Mr. President: Okay. So—

Sen. D. Nakhid: Cannot take it.

Mr. President:—again. No. Sen. Nakhid.

Sen. Roberts: They are not ready to do it.

Mr. President: So this Bill is about making pan the national instrument, and I get the fact that, it is all about pan. So you are talking about land promised to Pan Trinbago and all of that. That is a little bit outside of what is before us, because it is pan, the national instrument that is where the boundaries remain. Okay. So bring it back in.

Sen. D. Nakhid: Mr. President, respectfully guided. But I am trying to show how we just cannot say something is a national instrument, without creating the framework—

Sen. Lyder: Infrastructure.

Sen. D. Nakhid:—infrastructure, for it to be the national instrument.

Sen. Lyder: Yes. You have to make infrastructure.

Hon. Senators: [*Desk thumping*]

Sen. Lyder: What? Is it just a piece of paper?

Sen. D. Nakhid: The English did not say we are the home of football. And throw one or two balls on the street and tell you all to make England the home of football. They created a structure, rules and legislation. They build facilities and infrastructure. They send players here.

Sen. Lyder: Training.

Sen. D. Nakhid: They send players to Brazil, who exported the game. They sent players to Central America and to Asia. That is what you call pan—what did we do? We let other people take that burden and run with it. We let other people take the pan and run with it.

Sen. Roberts: And now we taking that.

Sen. D. Nakhid: And now they taking our land. They taking the pan men land. And “allyuh” think we are coming here and stand for that?

Hon. Senators: [*Laughter*]

Sen. D. Nakhid: We are not standing for that.

Hon. Senators: [*Desk thumping*]

Sen. Roberts: UNC will give them back the land.

Sen. D. Nakhid: We are not standing for that. Pan men suffer enough.

Hon. Senator: Who is he representing?

Sen. Roberts: We will give them back. Desperadoes the greatest pan [*Inaudible*]

Sen. D. Nakhid: So, Mr. President, this is not just about, we will come and talk about pan. You know the PNM has already like to bring legislation and then try and narrow it, so nobody could talk about it—

Sen. Lyder: [*Inaudible*]

Sen. D. Nakhid:—and Standing Order—no. This is not one time—no, we are not standing for that this time. I will tell you why. Pan is too important. The pan is

too important, played mostly in underprivileged communities that we need to uplift.

Sen. John: And we only [*Inaudible*]

Sen. D. Nakhid: And we cannot pay lip service like—people pay lip service to it. They just come and sip champagne—

Sen. Lyder: Give us history.

Sen. D. Nakhid:—three months of the year, and play they are listening to pan, and then tell you how they love pan more than you. I am not joking when I talk about I grow up in this thing. I grow up in this thing. I was just making the point of that. I was just referring to that, Mr. President. I understand—

Mr. President: I know, I know. We have heard it.

Sen. D. Nakhid: Alright.

Mr. President: Several times.

Sen. D. Nakhid: Okay.

Mr. President: Move on.

Sen. Lyder: But it is the truth. And I want to know about the land.

Sen. D. Nakhid: So, therefore, Mr. President, in creating that infrastructure and framework, to make pan truly our national instrument, it requires certain things. They did not come and tell us what the initial investment is, for example. They did not say nothing about that. How are you going to know what investment they are going to make pan? Just normal PNM lip service. They did not tell us well hear what—they tell us what? They are taking that land, but they are giving us the old post office.

Sen. Roberts: The UNC will give them back it.

Sen. D. Nakhid: Look at that small piece of land they want to give pan men. What pan men can do on that land?

Sen. Lyder: National instrument.

Sen. D. Nakhid: So, they are taking 13 acres where they could build a complete home of pan. Where people coming from the airport could just duck in—

Sen. Roberts: They are billionaires.

Sen. D. Nakhid: —where the same Minister of Tourism, Culture and Arts, might finally find something to do in his job, other than wait for cruisers to come and offer employment. He might finally get something to do.

Sen. Roberts: Billionaire here.

Sen. D. Nakhid: They want to give a billionaire the land. “I eh even want to talk about dat”.

Sen. Lyder: They can get to negotiate.

Sen. D. Nakhid: To build a cricket academy. Well we have a cricket academy that underused, utilized, never been used for purpose—

Sen. Lyder: Over spent.

Sen. D. Nakhid: Over spent. But they will not understand that.

Sen. Lyder: Over spent. \$1.2 billion.

Sen. D. Nakhid: I will not even talk about the corruption with that. I am just telling you we have a cricket academy that has never been used.

Sen. Lyder: Brian Lara in fact.

Sen. D. Nakhid: I am getting to every point, Mr. President.

Hon. Senators: [*Crosstalk*]

Sen. D. Nakhid: I am getting to every point. So they want to build a cricket academy on that land, and the question we have to ask, why? If they so want to pay homage, the patrons of pan, as the national instrument, what have they shown to us the citizens of Trinidad and Tobago. The communities that pan—if pan truly was the national instrument, they could uplift those communities that right now are

mired in crime and under development. What have they shown us? They never came one time here—for example, as I spoke briefly about and I want to elaborate on that, the pans in school. Do you know that in certain countries of the world, pan is a required course? You have to take pan.

Sen. Lyder: Japan.

Sen. D. Nakhid: Japan is one of them. In Trinidad and Tobago, it is optional. Still optional, in some of the schools that still have pan. And most of them—because one of those schools in Tunapuna, came to me to ask for funding to help them. They do not have this, they do not have that.

Hon. Senator: How much did you give them?

Sen. D. Nakhid: We will talk about it after.

Hon. Senators: [*Laughter*]

Sen. Lyder: When we are in government, we will be able to give “alyuh”.

Sen. D. Nakhid: Exactly, that is the point.

Sen. Lyder: When we are in government, we will give them.

Sen. D. Nakhid: This Government as you know—

Hon. Senator: They are the [*Inaudible*]

Sen. D. Nakhid: —Mr. President, has left everybody with empty pockets.

Sen. Lyder: Yes. “Ahh”

Hon. Senators: [*Laughter*]

Sen. D. Nakhid: So, I could not give the pan people anything.

Sen. Lyder: I and all.

Sen. D. Nakhid: But, I assure you Mr. President, once the UNC is in government—

Sen. Lyder: “Tings bad”.

Sen. D. Nakhid:—pan men will be seeing a much better future.

Sen. Lyder: Yes.

Hon. Senators: [*Desk thumping*]

Hon. Senator: A brighter horizon.

Sen. D. Nakhid: And I am very serious about that.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: And I want to go back little bit.

Sen. Mark: Yes.

Sen. D. Nakhid: I want to go back a little bit. I want to go back a little bit.

Sen. Roberts: Beat them like a second pan.

Sen. D. Nakhid: My uncle who was not mentioned here—

Sen. Roberts: Which one?

Sen. D. Nakhid: I will take it as an insult. “The Hammer”. I will take it as an insult. Personal. He has not been mentioned here. This is the second time. The first time was a proclamation by the PNM mayor, Martinez. When he spoke about the great innovator in a proclamation. Not once mentioned, Rudolph Charles. But I do not know why. I am not a conspiracy theorist to say, I wonder, just because that is Nakhid’s uncle—

Sen. Roberts: Call the name.

Sen. D. Nakhid:—that they are not mentioning, Rudolph Charles.

Sen. Lyder: Very possible, they are that vindictive.

Sen. D. Nakhid: I say but these people could be so—I do not want to believe that, I am not a conspiracy theorist. But it just a little bit too much right now. That the Minister of—

Sen. Roberts: Who was The Hammer lawyer?

Sen. Lyder: Scotland?

Sen. D. Nakhid: The Minister of Tourism, Culture and Arts, could speak 40 minutes, and about not only inventors of pan—the innovators, but they did not mention him. And I will tell you what.

9.55 p.m.

I will tell you what I believe, as well as my family, that the promises made to the pan men by the then Government of the day, the PNM Government, by Dr. Eric Williams, by George Chambers and to some extent, by Patrick Manning, I believe that left my uncle heartbroken. I really believe that because I know what he did for the PNM when called upon by Dr. Eric Williams, I know. I would not say it here but they are too young to know but I know what he did. “That is not no folklore I talking about”. I am talking about—I know what Desperadoes was called upon to do by the PNM Government, and they carried it out and I know what they expected the then Government to do for the Laventille community never came to pass. Never came to pass and we have to ask ourselves why? I mean we all know the famous story of Dr. Eric Williams coming down to Laventille by the basketball court and saying “He always hearing about the badjohns of Laventille” but when he came down to Laventille, “he eh see badjohn”, all he saw was?

Sen. Lyder: “Poorjohns”

Sen. D. Nakhid: “Poorjohns”. What have they done since then to alleviate that? Laventille is still poor as ever, if not poorer. The once thriving community spirit that we had from Picton to St. Barbs, and beyond—down into the Quarry—is not there anymore. Now they want to come here and regale us with a history of pan, a day recognized as pan and they will want to say well they bring this pan as a national instrument.

Hon. Senator: “With small pin taking picture of a pan. The man cah even spell pan”.

Sen. D. Nakhid: I do not want to say it again, decades late—

Mr. President: Senator you have five more minutes.

Sen. D. Nakhid:—decades late; millions of dollars short.

So, Mr. President, I did not need anybody to write me anything about pan and I do not say that to cast aspersions on the Minister. “I know he eh really know nothing bout pan”. It is not his domain and I understand that. We have people in Trinidad, when Carnival come around, “dey in all de pan, de biggest pan lovers, but as soon as Ash Wednesday reach—eh Sen. Viera?” As soon as “they ain’t want to hear pan, nowhere. Dey ain’t going nowhere”, to find out how the pan men are doing, what they could do for the pan men, if they need help with anything; a hamper? I am glad to say, I have given out hampers up and down Laventille. I have been castigated for that by people on the eastern—“well, why yuh giving here? Why yuh not giving there?” I give to Laventille because Laventille is my community. My community, Laventille.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: And Laventille Desperadoes comes from that community and if they cannot honour Laventille Desperadoes—and I will leave you with this. I will leave you with this—

Hon. Senators: [*Crosstalk*]

Sen. D. Nakhid: I will leave you with this—

Hon. Senator: “Oh that so funny”

Sen. D. Nakhid: I will leave you with this, Mr. President, I will ignore the mumblings and ramblings from the peanut crowd.

Sen. Lyder: The peanut crowd. [*Laughter*]

Sen. D. Nakhid: I will leave you with this, this Government in proclaiming their love for pan and Laventille Desperadoes, said that they would give Laventille

Desperadoes their own pan place because you know they had us moving from place to place, after we could not go back on the hill from the crime and insecurity that they created, okay. So we will move from Tragarite Road, they built a so-called pan theatre in George Street, do you know, Mr. President, when I investigated that, the lease for that property is not in Laventille Desperadoes' name?

Hon. Senator: It is in whose name?

Sen. Lyder: “So they talking bout us with de land”?

Sen. D. Nakhid: “I ain't want to call who name it is. It not in Laventille Desperadoes' name. In other words, at any point in time, they could throw Laventille Desperadoes out, and yet still, they come, proclaim they spent \$13 million on the—“that ain't what they say?”

Sen. Lyder: Fourteen.

Sen. D. Nakhid: Mr. President, \$14 million on Desperadoes Pan Theatre. So “I say wah, finally boy, de greatest pan stand in the world get ah pan theatre”, this has to be right. “When I look and investigate the thing, it doh even belong to Laventille Desperados. So is mamaguy, after mamaguy, after mamaguy”. I want the Minister to address why that is. And if they cannot as a Government create the conditions and the security for Laventille Desperadoes to go back on the hill, because if there is one thing that could quiet down that community, it is Laventille Desperadoes, that is a fact. If there is one thing that leadership provides, it is a certain culture and I think we heard that before and once the hill does not have that leadership, once the East-West Corridor does not have that leadership that comes with pan side, what pan really means to those communities, we will have a floundering Government, out of touch, disconnected, at sea, to deal with crime, to deal with our socioeconomic problems. They are at sea. So they could come with

all the trite, trivial proclamations that they did here about pan. I am saying that the only people that could correct pan is the UNC, under Kamala Persad-Bissessar SC.

Hon. Senators: [*Desk thumping*]

Sen. D. Nakhid: We will not use the pan yard only for having political meetings. We will make sure that it is used to uplift the communities up and down the East-West Corridor and return our beloved country to a state of normality and sanity. I thank you, Mr. President.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Maharaj. Senator—“who it is?” Sen. Patasar.

Hon. Senators: [*Desk thumping*]

Sen. Dr. Sharda Patasar: Thank you Mr. President, for giving me the opportunity to add my voice to this debate, to not come into this with the kind of experience that some of the older people would have here but what I come with is an alternative relationship with pan from my work in music, from a family that has typically dealt with pan in a different forum. So when I think of pan, what tends to happen is that I trail off into my imagination to think of how and what would have been going on in the minds of the people who developed that instrument. Because to me, it is almost mind-blowing to think that you saw this oil drum and you thought that you could make this into something musical. This to me is the stuff of fiction.

So there is no disputing to my mind that steelpan is a central sound in this landscape, it is the sound of home. When you go away and you hear a pan, from my experience walking in London, in Westminster and I heard the sound of a pan and I walked towards it, it felt like home. What the pan represents to me is a power of the diasporic imagination—

Hon. Senator: [*Desk thumping*]

Sen. Dr. S. Patasar:—because this an in-between space. When we think about the creation, the history of the space, it is a diaspora and a diaspora by its very nature. It has a very fertile position. It is basically a blank canvas that you could do anything with and that to me is what pan represents, to me as a musician, to me as a creative, to me as a citizen. This is a place that allows for recasting, for reframing and that is what the steel pan symbolizes.

10.05 p.m.

It is a strong symbolic representation of the creative possibilities that exist here, and we are seeing that being developed in the technological innovations that are taking place; the G-pan comes to mind. So, to designate the steelpan a national instrument theoretically makes sense, to enshrine it in law makes sense because if this is a nation-building exercise, then we do need shared symbols that unite us.

But there is a stumble, and I know that this may represent in a sense a non-popular position, but in my role as an Independent Senator I think it needs to be said. When you make something a national instrument, you pit it against the concept of nation. So, that begs the question then, what constitutes the nation? How do you define the nation, and is this concept of nation shared by a majority? That is the question that I would ask.

And I will give you my personal experience as a musician because I think it is relevant here. Some years—and it is still ongoing, whenever I was asked to perform, I was always asked to perform, when it is in a national capacity, with a pan. So, my way of dealing with it was to step away. So, I stepped away for many years, because I had gotten to the point where I was fed-up of being asked to do that. The issue for me was not that it was the pan, but the issue for me is the way that we frame what constitutes “national”. To me as a musician, because I am a

musician playing the sitar, it has to do more with music than with the instrument. So to me, my “Trinidadianess” had to do with the music that I was creating with this, not necessarily the instrumentation—

Hon. Senators: [*Desk thumping*]

Sen. Dr. S. Patasar:—and I decided that I was not going to be in a sense bullied into that and I stepped away for almost a decade. Now, I have come back to it, but I have come back to it with a different eye because I think the country is now at that stage where we are now moving into that understanding of “national” more and more.

Hon. Senators: [*Desk thumping*]

Sen. Dr. S. Patasar: So, I quoted the experience in London, I quoted the local experience and to me what this highlights is that when I am outside it is easy enough to claim home, but when I home, where is home when you think about the nation this way. So, coming out of this Bill I have a few questions that represent some of the other voices in the nation. The question is: Who do we alienate when we create such designations in a multicultural society like this; and how does it aid in nation building that should be inclusive? And the National Cultural Policy states this, and the National Cultural Policy says that:

The—“...concept”—and I am quoting from it—“takes on an even greater significance in post-colonial societies such as Trinidad and Tobago that are still dealing with the multiple traumas of enslavement, indentureship, and dependency in the economic world order...”—it is—“....evidenced by the lack of assurance some citizens exhibit in celebrating their ways of life and by privileging other cultures ahead of their own.”

So, the designation of the steelpan as the national instrument is not as simple as it looks, it carries the weight of history, and it carries the weight of politics. I was

having this conversation with Sen. Dr. Browne when he asked, we were speaking about my voice which I lost 18 years ago, and he was saying music is such a nice space, but it is not what you see on stage. There are a lot politics involved in the background, so, as a musician, I am speaking from that perspective.

And here I make reference to Sen. Maharaj's Motion that called for a joint select committee to be established to determine the best mechanism for giving meaningful effect to this declaration. I felt that that might have been the way to go because what it would have invited was multiple voices to share in this exercise. So, however, we look at it, the country's history is complex, the task of nation-building is by no means an easy one and it requires that we deeply recognize that the space is multi-layered, very much complex.

So, the Bill is a great one, okay. But it leaves me with questions and these are the questions that I will leave you with: What is the Bill supposed to achieve? What is the purpose behind making it law? Is it necessary for us to be able to do innovations on it? Have the pans been patented? What is the urgency of it at this time? And moving onto the symbolic, how does the law to speak to addressing the challenges—[*Inaudible*]. So, that is it, thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Hislop.

Hon. Senators: [*Desk thumping*]

Sen. Laurence Hislop: Thank you, Mr. President, for allowing me the privilege to just jump in very briefly on this Bill, in this debate. This evening or within the last two days has been a historic occasion for our country, for Trinidad and Tobago. Has been a historic occasion from the standpoint that we are celebrating what is ours and we are not here this evening to debate who is more a lover of pan, and who is not. We are here to celebrate pan.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: And whether we were born into pan or whether we became pan lovers in our adulthood, whatever it is, pan is ours. It is an instrument that even if you want to stand up when it starts to play, you cannot stand up. It creates a rhythm. Well, it was created out of us, it was created out of our rhythm and because it was created out of our rhythm we cannot to help but move when pan begins to play. Whether you were born into a Despers pan tent or into Our Boys or Dem Boys or whichever pan tent you were born into. Or whether you became a fan of a pan side, or of pan, there is just something about it that moves you. There is a spirit that comes out of it that moves you, and that is why we are here to celebrate pan.

I just want to touch briefly, because we are in a debate, even though we are in a celebratory mood, we are in a debate, \$20 million average spent on a pan tent for one of the premier pan sides in the country, Desperados, just over \$20 million I believe is the estimate.

Sen. Lyder: [*Inaudible*]

Sen. L. Hislop: Whatever. Millions were spent by the Government of Trinidad and Tobago—

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop:—for a historical and renowned pan side for them to have something for them to even take the organization to another level and we should be celebrating that, those are the kinds of things that we should be celebrating. But also, Mr. President, we have a situation where Sen. Nakhid just heaped praises on his political leader and speaks about when the UNC comes back into power that the UNC will take care of pan. But I want to read something from an article

written by then David Nakhid, he was not Sen. David Nakhid, I do not think,
Friday 29 November, 2013:

Hon. Senator: From what year?

Sen. L. Hislop: 2013, he was a guest columnist, yes, guest columnist.

“Recent history makes it clear that the People’s Partnership cannot lead
people out of a paper bag”—

Hon. Senators: What!

Sen. L. Hislop:—

“let alone a country”—

Hon. Senator: He did not say that.

Sen. L. Hislop:—

“out of the morass.”

Hon. Senator: “Nah!” He did not say that.

Hon. Senators: Wow.

Sen. L. Hislop: In which it is.

Sen. Lezama-Lee Sing: David, no.

Sen. L. Hislop: Not my words.

Hon. Senator: Not him.

Sen. L. Hislop: Now the same gentleman has put on a cloak of righteousness and
has spoken very highly of the Opposition Leader and it makes me stand in my size
12 shoes—

Hon. Senators: [*Laughter*]

Sen. L. Hislop:—and wonder. Mr. President, from the back alleys and the dusty
yards of Laventille, Sen. Nakhid, to the big yard and to the international stages,
pan is now being elevated—

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop:—from a legal standpoint. And when I say from a legal standpoint, Mr. President, pan did not require a piece of legislation to elevate it. It was elevated by the people of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: What this Government is seeking to do, Mr. President, is recognize and give legal status to an instrument we have all come to love, not just an instrument, Mr. President, but a way of life, it is a way of life.

And, you know, I remember the days because I grew up a good Seventh-day Adventist young man, grew up a good Seventh-day Adventist young man. And I remember the days when the pan was even allowed in church because pan was considered the bad boy instrument out of the alleys and out of the—

Hon. Senator: “Badjohn.”

Sen. L. Hislop: Yes, it is only “badjohn” used to play pan and that is how pan was seen. And, you know, to tell you where pan has come to, Mr. President, I remember a gentleman at a church that I used to attend said, “If it is one instrument that should be allowed into heaven, it is the steelpan”.

Hon. Senators: [*Desk thumping*]

10.20 p.m.

Sen. L. Hislop: That is because there is nothing sweeter than hearing people like— and I am taking this from a Tobago standpoint because right now, Tobago is ruling the roost with pan. We are taking claim with that where the medium band is concerned. We are taking claim. We are also taking claim, Mr. President, where some of the best arrangers in the country are right now.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: We taking claim of that. So I want to—there is nothing sweeter than hearing a Duvone Stewart play a pan, and Kersh Ramsey, and I must say, my

own relative, Ojay Richards, who is one of the renowned young arrangers coming into the fore—and these gentlemen have made a name for themselves.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: You talk about the level of musicianship that comes out of Katzenjammers of Black Rock, Mr. President—and this is about a national instrument, so it is not just Laventille's instrument. This is not just San Fernando's instrument or Diego Martin's instrument. This is Tobago instrument as well. This is Trinidad and Tobago's instrument. This is ours.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: So when you speak to people like the late Patrick Arnold and Mr. Roger Sardinha, and I want to speak to one of the best tuners that I know, the late Iran Anthony, better known as “Duce”, who was the manager of Steel Xplosion out of Carnbee, these are men who—

Sen. Dr. Dillon-Remy: He was from Buccoo.

Sen. L. Hislop: Well, originally, yes. Sen. Dillon-Remy will correct me, that he is directly out of Buccoo because, yes, he was, I think, was co-captain of Buccooneers and then he created his own panside, Steel Xplosion, and these are men who, if they were alive today, Mr. President, would be applauding where we are. Yes, things are not perfect, Mr. President, and we all learn as we go along, but when we can stand as Government and declare and give prominence to an instrument that we have all grown to love, whether we were born in it or whether we were grafted into it—

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop:—and I want to use a little biblical reference. Whether you were born a Jew or grafted in as a Jew, Jesus Christ considered you his brother. So whether you were born into pan—

Sen. Lezama Lee-Sing: Preach pastor.

Sen. L. Hislop:—or grafted into pan, we are all pan lovers because we are Trinidad and Tobago, Mr. President.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: So I want to congratulate, not only the Prime Minister for this love of pan—because he is a pan lover as well, and for seeing, giving the strength and the backing and the foundation to the Minister of Tourism, Culture and the Arts, so that he could put this in its rightful place, so that we can have a debate to elevate our national instrument to its legally rightful place, Mr. President, I think we ought not to be patting ourselves on the back because this is what we are supposed to do. This is what we are supposed to do, but we stand on the backs of all those, the creators of the instrument, those who had the vision, those who had the rhythm within their souls, and the legacy that has continued from the fights between pansides, to where pan sides can now exchange players—because that is what the instrument has done over the years—moving it from “gangsterism”, Mr. President, to places of note, to churches, to halls, to playing in concerts with philharmonic orchestras, from calypso, from ping pong to classical music. The pan has, I believe, one of the widest ranges where a musical instrument is concerned, in terms of what the genre of music that it can play, from calypso, soca, reggae, gospel, classical. I think one of the best versions of—

Sen. Dr. Dillon-Remy: “Hallelujah Chorus”.

Sen. L. Hislop: Thank you, Sen. Dillon-Remy. Classical music from Beethoven and, yes, “Hallelujah Chorus”, I have heard played on a steelpan, Mozart played on a steelpan, played on the national instrument of the Trinidad and Tobago. And it is no sweeter sound to hear, I think it was at the last Olympics, when our national anthem was played—

Sen. Mitchell: Jareem Richards.

Sen. L. Hislop:—for Jareem Richards—played on the steelpan.

Hon. Senators: [*Desk thumping*]

Sen. L. Hislop: Mr. President, there is nothing more I could, but I am ready to vote in favour of doing what we are supposed to do to elevate our instrument. Mr. President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Francis.

Hon. Senators: [*Desk thumping*]

Sen. Helon Francis: Thank you, Mr. President, for allowing me to participate on this Bill. I know by now everyone is a bit exhausted. Yeah. Me myself. Hon. Members of the Senate, the National Musical Instrument Bill, 2024, is a move that gives formal recognition to the steelpan in both this House and the Lower House, a gesture that is, for sure, long overdue. It represents a significant step in recognizing and promoting a crucial aspect of our national heritage. By officially declaring the steelpan as our national musical instrument and instituting regular oversight on its status and promotion, we not only honour our cultural roots, but also paved the way for its continued relevance and growth, both nationally and internationally.

As part of this Bill, the Ministry of Tourism, Culture and the Arts is being committed to monitoring and reporting on the steelpan's impact and development. We could only hope that, through that process and the data captured, it will also cause to create a strategic plan that will ultimately yield tangible commercial benefits to those that dedicate and, many times, sacrifice their lives and livelihoods to promote this now de jure national instrument.

You know, I listened to the hon. Minister of Tourism, Culture and the Arts,

Randall Mitchell, with whom I have had a good relationship with. In his remarks, he referred to moving the recognition of the steelpan as the national instrument from the de facto to de jure, and in doing so, alluring its ascension in status from practical recognition or its real status in society, to this honourable legal recognition that we are debating in this Senate today. While overdue in many ways, it feels like finally having a wedding ceremony to marrying your common law wife of over 50 years.

Hon. Senators: [*Laughter*]

Sen. H. Francis: De jure. In that vein, I would like to know what would be the tangible benefits of this de jure status, and to whom do these benefits accumulate? There are roughly 200 steel orchestras that compete during the Carnival season, yet less than 10 per cent of them are sponsored. Will this Bill create steps to fixing these things? In the de facto world that we had before this, Ash Wednesday comes and the panyard is empty. Nobody asks where the panman disappears to. As far as the general public knows, all of them vanished into thin air to next Carnival. Like Santa Claus and the elves after Boxing Day, nobody checks in on them. Nobody is wondering how they are making out, when and where would they be performing next, how they send their children to school, and the same for calypsonians.

Today, we are in July, where are the arrangers that we pile praises on in February? Where is the bass woman who stands on top of the pan frame playing at lightning speed? Where is she today in this very moment? What are the tangible benefits to those who have given us something to love in the steelpan, like a faithful common law spouse? Of course, as a calypsonian myself, do not get me wrong, I acknowledge that this provides a certain level of recognition and visibility that ignites promise and opportunity, that glows like a bright light in otherwise dark cultural circumstances, but often that light proves to last as long as the flame

of a matchstick.

In that vein, behind the door that this recognition opens, I would like to see steps towards creating tangible benefits to the practitioners and promoters of our national instrument. I would like to see the data captured in this monitoring and reporting to be undertaken by the Ministry, and turned into a strategic plan to develop the industry in a commercial and sustainable way, and not just with government handouts and incentivizing corporate involvement.

These are musical artistes who should be envisioning their livelihood in the context of pan and in the music industry. They should not be thought of as disposable gladiators who people pay to see battle in a colosseum once a year. We need a plan to move us away from the view of this industry. So my question would be: How would this Bill take us in that direction and provide tangible benefits to those that continue to lift our national instrument up, and to the world, making it fitting of this recognition?

In closing, I would like to say that as we consider this Bill, let us reflect on the profound cultural and historical importance of the steelpan. Let us also ensure that our acknowledgment is genuine, meaningful and tangible in its intention. To do that, let us allocate the necessary resources and strategic planning to support its promotion and development effectively. In doing so, we can celebrate and preserve a unique symbol of our nation's innovation, spiritual and cultural identity. With that, I say, thank you, I hope you understand.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: Mr. President, I am very happy to join this debate on this Bill:

“...to provide for the designation of the Steelpan as the national musical

instrument of the Republic of Trinidad and Tobago...”

Mr. President, it is better late than never because before self-government in the 50s, pan was the national instrument, musical instrument. When we gained independent in pan '62, pan was the national musical instrument.

10.35 p.m.

When we gained republicanism status in '76, pan was our national musical instrument. We were told by the hon. Minister of Tourism, Culture and the Arts, that even though previous prime ministers, including Patrick Manning, and I think he mentioned the former Prime Minister, may his soul rest in peace. He declared pan, the steelpan, as the national musical instrument. Mr. President, even though all of these things were done over all of these decades, we were never able to put this declaration into legislation. So it has taken us decades upon decades, and in 2024, we are now taking that lead, that step that we ought to have taken so many decades ago. I really want to record my congratulations, my appreciation, to the hon. Sen. David Nakhid for his brilliant exposition.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: A testimony, a testimony of the grassroots, right, on this Bench, living testimony of the national musical instrument. So, I want to congratulate my colleague. Mr. President, I also want to take this opportunity to associate myself with the culture Minister. Henry Harper for over two decades, Mr. President, has been like a pioneer in this country, seeking to get the steelpan declared as our national musical instrument.

He has written to prime ministers, to presidents, Mr. President, to all sorts of prominent individuals in the nation who can take and make decisions, and I think based on the recognition this evening coming from firstly, the Minister of Tourism, Culture and the Arts, I want to associate with the great appreciation of our nation

to Brother Henry Harper who has played his part, he is alive and well, as we speak.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: He was here, just last Friday. He was recognized in the public gallery, in other place, he is not here this evening because he probably did not know that we were going to deal with the pan this evening, this particular matter. So, Mr. President, I thought I should put on record and join the hon. Minister in recognizing this national icon, who has made his contribution and who is happy to have seen his work being materialized in the form of this legislation, that is before us today. Because he has been advocating, Mr. President, for over two decades for us to put into legislation, put into law, the recognition and the deceleration of our steelpan, as the national musical instrument of nation. I think he is deserves our honour and recognition.

Mr. President, I also would like to ask to hon. Minister to look at this initiative not in isolation, but to look at it from the perspective of how we can give what I call genuine, meaningful recognition to this national musical instrument. You know how that could be done, hon. President, through you to the hon. Minister, by ensuring that national content on our radio broadcasting networks, particularly as it relates to the steelpan.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: To steelpan music, Mr. President, is given the kind of recognition, in many countries. In Trinidad and Tobago for example, we do not have a policy. We started it under the PP Government, we reached a long way, we had consultations and discussions, symposia, and we were about to bring legislation to Parliament, to deal with this issue of local content. My colleague Sen. Vieira, will tell you, Mr. President, that if you go to Nigeria 80 per cent, boy, local content, you know, 80 per cent. In Canada it is 35 per cent. In a place called

Zimbabwe whatever they say about Mugabe, he is a national hero.

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

Sen. W. Mark: You understand, Mugabe. Mr. President, 75 per cent local content in Zimbabwe, but in France 40 per cent. So why we cannot, as a recognition, because remember the steelpan is one element, one aspect of that whole milieu that we are talking about, but it is the most critical aspect. I dare say, Mr. President, that it is something that the Government should really pay close attention to and bring legislation. The groundwork has been down already, the symposia were held, discussions were had, we just only have to take the material off the shelf, dust it and legislate for it.

You have over 36 radio stations in this country, and you can count on two fingers, one hand, if so many, with the level of local content that you could talk about meaningfully. I know 95.5FM “I ain’t advertising for dem”, but I know that on that station they does bring “ah fella” called Brother Diaz who was the former president of PanTrinbago, and they have a programme on a Sunday evening, or a Saturday evening, and they will just deal with pan. Pan, “ah whole hour”, and he does a history on that, but we do not get on other stations, because there is no policy in T&T, compelling these station to allocate a certain percentage of their broadcasting time towards local content. But in France and other countries, they have now legalized that, they have mandated that.

So I am just saying to hon. Minister that that is an area if you want to give flesh, put flesh to the meat, or flesh to the bone, rather, of what we are talking about today. I am saying that it is an area that we need to pay attention to. Mr. President, I just want to indicate and I just want to tell the Government if you fail to do it, we will.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We were very close to completing it, and then you came and you are nine years on your last dying days, under the last period, let us see if the Government will take up this particular challenge, and really genuinely show their interest in this instrument call the national musical instrument, the steelpan.

Mr. President, I am not going to take long, I just wanted join to my colleague, but before I close again, Mr. President, through you to the hon Minister, the creative industries, the creative economy. In the world today, Sen. Vieira will tell you, as at the end of 2010/2015, I think that those were the latest data statistics I have, Mr. President, the value of the creative industry is over \$2.2 trillion and it is the point that you were making, hon David Nakhid. Mr. President, if we use our culture and if we use pan as an example, that is what we are dealing with today, you know how much income, how much revenue, how much employment, how much opportunities, we can generate particularly for our young people.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Our young people in Trinidad and Tobago, can be engaged in a productive meaningful manner in this industry, if we really focus on it in a proper way, Mr. President.

10.45 p.m.

So, I could not allow this moment to pass without standing and identifying like David. I did not have his experience but I could tell you I came from the community. My mom came from Desperlie Crescent, Laventille, so too have my roots and so on in Laventille

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

Sen. W. Mark: I spent many years of my life growing up by the grandmother and my grandfather who was a shoemaker, right at the bottom of Piccadilly Street, he lived to be 100 years, I hope I can follow in his footsteps. Right. So, Mr.

President, all I am saying is that I wanted to really associate myself with this important piece of legislation and the initiative taken. I think that we could put our heads together to strengthen what we have before us, and to make all our countrymen proud of this very important instrument that the ordinary grassroots people, through the fires of struggle, resistance to oppression by the colonizers and the slave masters. They were able to create it in that almost sea of oppression and exploitation this very important instrument. The only musical—I “does” boast wherever I go, wherever I travel, I can tell you, Mr. President, I boast wherever I travel. I will tell my colleagues, whoever I meet, who holding a conference, I say, I come from Trinidad and Tobago, one of the most beautiful countries in the world, but you know what, what is even more important, we are the only country in the world that was able in the 20th Century to produce the only musical instrument known to mankind, the steelpan.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: That was the only musical instrument known to mankind that was created in the 20th Century, and where did it come from? It came from the small, tiny Republic of Trinidad and Tobago. We did it. The ordinary people did it. The working man and woman did it, and we must be justly proud of our commitment and our contribution and our dedication to this national instrument as it relates to this very important national musical instrument. So, Mr. President, I want to thank you for giving me the opportunity to join with my colleagues in supporting this very important measure before us. Thank you very much.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Maharaj.

Hon. Senators: [*Desk thumping*]

Sen. Sunity Maharaj: Thank you, Mr. President. I would like to thank the

Government for bringing this Bill and formally declaring—that will formally declare the steelpan as a national instrument. -I have a Motion to that effect that is on the—well I guess it will have to come again, but I will still proceed and I hope by what I say today to convince you that there is more to be done beyond the declaration.

We need this. We needed to declare that we all accept pan as our national instrument. We say it—a lot of people have been surprised to hear that Parliament is going to—they thought it was the national instrument all along. But like those relationships that are real and enduring but need a little paper to validate its existence, we needed that for pan, so that we can go into the world and proclaim. In the way that some people say the answer to every question is love, I would like to say the answer to every problem that we have is pan, and I will argue that case as quickly as I can. I want you to just cast your mind back to the 1930s. I was not here, but we know the history. We know that was the period of intense labour-angst from the dock workers' strike in 1919 that was never resolved.

In the 1930s workers were unhappy and marched and the place was roiling, and at the same time the world outside there was gearing up for war, a world war, second world war. In Trinidad, amidst all of that, all over the hills—Morvant, Laventille, Belmont—and then it spread to Woodbrook, and it was in Point Fortin, it was all over. Teenagers, not big men, teenagers picked up this metal and they started to pound, and as they did a kind of competition took hold, who got something, who got something else, and that was such a wild fire. To this day nobody could say who invented pan, because it was not invented by one person, it was invented by communities. Nobody knew which race or what, is who iron better, when you are in pan.

This is the other significant point about steelpan and the steelband. It is the

one place in this country that has so much contact system and corruption, or—wherein meritocracy reigns. You only get to the top in pan because your iron better than—you are better than somebody else. It has a genuine meritocracy, it has moral and competent leadership. You do not get to be the captain or the manager unless you enjoy the respect of the members of your band, and if they do not agree you are not going to be that person, and when they agree they just come in, you do not even have to be there, these are the instructions, this is what we playing, this is what you all do. The captain will deputize somebody, because you know why, you respect that person and you are prepared to take instructions from that person.

It is also the place that is safe. You can send, as we like to say in Trinidad, your girl children, and from all the elders who graduated to the point of just sitting down and watching, as Scrunter would say, “That Eh Woking Here Tonight”, when people want to come try something on the girls.

If somebody gets shot it is by accident, it is a stray bullet, that has happened to this girl in Arima. It is a safe space, it is a loving place, it is a place where truth is always on the table. It is a meritocracy, and most of all it is a place of education. Let us remember, as we grapple with the inability to transform our education system from whatever the British left here, with the exams—as I always say, who sets the exams determines the rules. That is a place where the dropouts and those who did not even go to school went up and they worked the science to a fine art of heightened excellence, and if you understand what happened there you would find out how to transform this education system.

Instead, we talk about Finland, and I will come back to show why this precedes, this Finnish education system, but I want you to see, in that explosion of invention and innovation that gripped Trinidad that was our Silicon Valley

moment. We talk about California and Silicon Valley, the difference between what we did in the 30s and 40s and 50s, and so on, and what happened in California was when a whole community of drop-outs, you know those guys like Bill Gates and they, they drop-out from university, they go in their parents garage and they do their software and so on. When our youths did that they did not get investors running to them saying, “I want to put some money in that. You know, I am going to give you some—I want to share” whatever, whatever. No, that is what happened in another country. What happened to them is that they got ostracized, they got beaten, they got locked up and criminalized.

That is what we did to our natural, indigenous scientists, young people, a whole generation. That went on for years and they still have not—for all the lauding that we do, and we enjoy the pan at Carnival time, if we genuinely understood their value we would not have the problems we have today, because there would be an investment in them more than a panorama competition. Because what they have there, this is the possibly for transforming our education system into one of experiential learning, into one learning that is joyful, and we will understand the need for an economy that locates that talent and that potential beyond the business of just playing pan.

I want to talk very quickly, because this is just going to be like when my Motion talks about, how do we give meaning to the concept of a national instrument? Otherwise we will just go about saying pan is our national instrument. But how do you give it meaning? It has to be anchored into an economy. The descendants of these people, these young people who invested and took the licks and the jail and everything, and ostracism, they have to be the people who today will benefit. And not benefit by getting their grandfather’s back-pay, they benefit by us recognizing the value, and to the extent that this is something, we can say,

okay, well, let us work with what we have. I want to put this in the context of the East Port of Spain Development Company and all the East Port of Spain initiatives, because East Port of Spain is such a rich part of the country, I cannot understand how we do not see it, and turn it into that. So, my brother here wants Despers. I am not getting into any fight over Despers because I know I “ain’t” going to win that. Look at that real estate, Despers towards by Independence Square, you walk down the road you get to All Stars, you have Blue Diamonds on the way, you have the craft market, you gone down a little further you are by Renegades. Where in the world can you get three of the best steelbands within walking distance? You do not see that that is a heritage district, but you could go to New Orleans and see a heritage district, any you could spend your money, but you cannot see that that is there.

Not only is that there, there is where the Canboulay riots right there where Carnival was born, that is right there. There is the first recording company right there. There is Railway Douglas, the first calypso tent, right there on Duncan Street. In that small space we have all the requirements for a walking area that could link—you just have to where All Stars is, you just build a bridge across to Piccadilly, and then you start to bring in East Port of Spain, Laventille, and you take those young people there and you train them, and you give them they history, and they will be the ones guiding the tourists. Let them walk the cruise ship and walk down Independence Square, and they enter a city, not a carnival city as the kind that was planned for Movie Towne, where our people will just have to put on their costume and go and get a minimum wage to play a mass. But something that generations can go, that area should be a walking area. How will the crime take hold?

When you light that space up in the night and you tell people bring out—

Every day you bring your food and you open up the craft market, make all the miniatures. This is what you should be funding, not make-work, real thing where people could put, and that will drive the crime and push the crime, because a lot of those people, a lot of them will get jobs. And not only that, you create an economic that is a cooperative. Because traditional mas characters, steelbands, all of these people must be owners, not workers, they must own it. They do not need a Government to own it, they need a Government to invest, and they must own it, and all the trainings that organizations like NT and NEDCO and all these things, that kind of training will mean something to them. And when people are educated for things that they want, they understand it and they learn it. When they have to learn it by rote to say, “Well, I am going to pass an exam”, they “doh” really understand, they “doh” really want it, they will come for the people.

So we have a way forward to move pan and move not just pan, but all the entire creative sector. I completely understand Sen. Patasar’s hesitation because she has to work through— now she is not the only person. What pan gives us is a chance to escape the idea that pan is only about one part of the community. The reason that we feel, when we hear the sound of pan, we hear the sound of home, is because our heart knows it, but our political brain does not want us to accept it.

11.00 p.m.

So we are not giving ourselves the permission to love it. But you know what, we are also not giving ourselves the permission to love everything that we have created here. Tassa may not have been born here, but the Tassa rhythms, you hear the Calypso rhythm and the Tassa, we created that. In the same way, we bring certain things from India and we bring certain things from Africa, but we have totally reinvented them and they are Trinidadian or they are Caribbean, whatever it is. And we have to acknowledge the competition between us that is fostered as

arithmetic for votes, has no—it is blocking us from embracing everything that is justifiably ours. I have heard people talk about pan as if pan is an African instrument. Pan is a Trinidadian instrument, it is Trinidadian. What is more Trinidadian than pan?

So, it is not—you know CLR James said, “what do they know of cricket who only cricket knows”. “What do they know of pan who only pan knows?” Because it is a metaphor; pan is a metaphor for all the things that are bright and beautiful about us. And so, I know it is a late time in the night, but I want us to see how much of our cultural—and not cultural wealth, this is our real wealth. This is more than culture, this is all of the things—we did not invent the technology for oil and gas but we have it and I know that we have people who went in there and learned things, they are just bright and they are curious and they taught the expatriates things about the sector here.

But there are things that nobody taught, we just had to—we heard our heart and we followed it and we invented things. And once we are talking about that, the core element here in pan is that pan is an economy that is a permanent and growth economy. Pan is not only about playing pan. If we were to see the transformation, if we were to tackle education transformation, the creative sector is the natural partner for the pedagogical sector.

I have proposed elsewhere that we transform all the written material in the books into audiovisual materials that will allow creative people, writers, musicians, photographers, videographers and so on, bring them together with the pedagogical professionals to create curriculum that is alive and vibrant and we will learn that. We want to see our history, we want animation, we want to see—we do not want read it in a book. Who wants to read history in a book? Create all—transform history into visual materials that will not bore children. And they must stand the

rigor so that they can be accurate and it is not propaganda and so on. That is full-time work. You can never finish that work because that kind of work, geography, history, all of these things, you take that out of the book and you create audiovisual material and all of this creative sector would stop being the gig sector where you are looking for a hustle. But it starts with the courage to tackle the challenge of change.

So I will just wrap up here and say that by saying that if we open up the space, if we have accepted pan, but what it is, bringing into the center of our space something that has been marginalized but it is not the only thing that has been marginalized. I think what Sen. Dr. Patasar was referring to is that sense of—she is Trinidadian, my music is Trinidadian, why do I feel that I am an appendage because all of this belongs in the center. All of all that we are—and people should not have to argue the case for that, but making pan and just saying to the world that this is something, maybe it lifts our pride in ourselves so that we can have the confidence to really see what we are and what we have and what we have created, and I think we can do it for everything else that we know we have. We have so much.

We have what I consider the grandmother or the mother of Caribbean civilization in Banwari woman and I cannot understand why we do not recognize what we have. That is how—she is, the mother. Yes, I am biologically Indian, but I am culturally Caribbean. I am from here—and indigenous, I am claiming that, that is my mother. And I want us to see those are the things that the tourists will come for too, but we are not creating an economy for tourists. Trinidadians create things for themselves and you can come in and enjoy it, you could pay us too in the process.

We have so much, we have so much and it is a proud day because I feel the

people who wanted pan declared and you have done it and this Parliament is doing it, they can walk into the world, they do not have to feel like some outsiders. I do not think they feel so. I think they are so proud they just did not know everybody is as proud as they feel about the pan.

I am really happy that this has come to pass, but I want us to open up and just be at ease with the idea of bringing everybody into the conversion. That was the whole idea of the Motion I had filed, which is, I wanted this as a symbol, really, of something we could all rally behind and around and then start doing that for everything else and not be afraid and not wonder about who has a place in the society and who does not have a place. And the smaller your numbers are, the more you doubt. Everybody, everybody should be given a place. We should know everybody.

I mean, I understand how the society is structured economically, but I do feel that there are so many people who feel, they want to belong and actually pan gives them something that makes them feel, “all ah we is one”. Carnival, it opens, this is why it is such an anomaly to be talking about all-inclusive when the intention is to exclude. The rope is that. But you know, Carnival, Carnival just opens its space and says come in, right, it just does that, and everybody finds a little space there.

So I want to thank you for giving me the opportunity to say a few words and to thank the Government for taking this initiative, to thank the Parliament for supporting it.

Hon. Senators: [*Desk thumping*]

Mr. President: Sen. Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira SC: Thank you, Mr. President. It is late, we are tired but I

could not let this Bill on the Order Paper pass without saying something and I will try not to be long. Designating the steelpan as our national instrument, why? What is the added value? Well, first, it helps promote and preserve our cultural heritage and identity as a nation. The steelpan forged by grassroots musicians using nothing but natural talent on discarded oil drums has given generations of Trinbagonians great joy, confidence and a sense of self-identity. It has become a symbol of national pride reflecting our history, traditions and our artistic achievements.

Today, people all over the world enjoy the steelpan. The instrument as we have heard is used in Japan, China, the Baltic countries, Europe, the UK and throughout the Caribbean. Our steelpan festivals, in particular, Panorama, and when we used to have the Pan Music Festival and the Pan Jazz Festival, they attract visitors from all over the world and they enhance our country's cultural profile.

Steelpan players have evolved from the "badjohn" that used to have their two sticks sticking out of their back pocket, to young players throughout all our schools. Highlighting the steelpan as our national instrument encourages music in education. Schools and cultural institutions can now include the steelpan with pride in their curricular, increasing awareness and appreciation among younger generations. Recognizing pan as our national musical instrument will stimulate and deepen interest in learning and mastering this remarkable instrument. And this can foster the development of new compositions, techniques, new types of pan and performances, enriching the nation's artistic landscape.

Making pan our national instrument can boost production and sale of pan, as well as related merchandise. And this can create jobs and promote the craftsmanship associated with the instrument. I know that within the Intellectual

Property Office there is even talk of trying to get a geographical indication for the steelpan. The Japanese have an interesting concept, it is called “living treasures”, and what they do is that they identify craftsmen and artisans whether you are a sword maker, you are into *ikebana* and flower arranging, whatever it is, but they single out the people who are the maestros in their particular fields and then they honour them with the designation “living treasure”. And besides giving gravitas to that persons, recognizing their achievements, they pay them a pension and they pay them to teach and hand down the craft to younger generations through apprenticeship programmes and that sort of thing.

That is something that we should be doing, we should have been doing a long time ago. I mean, we have had such great musicians, whether it is Jit Samaroo, “Boogsie” Sharpe, “Robbie” Greenidge. You know these guys all need to be honoured, not just with a medal, but where you could actually showcase them with pride and they could be an attraction for people to come and visit and see and they can enhance the profile of communities. Because you know, some of our most dismal communities have produced these magnificent diamonds, these jewels. We really need to highlight it.

So, the steelpan can serve as a unifying symbol. The steelpan in this country transcends race, class, religion and politics, brings together diverse communities within this beautiful country of ours. It promotes a sense of shared identity and common cultural heritage. In this country we support pan sides, as Sen. Nakhid has so aptly demonstrated, with the same passion that footballers and basketball fans support their teams. I agree with Sen. Nakhid about Despers being the best pan side.

Sen. Nakhid: [*Desk thumping*]

Sen. A. Vieira SC: But there are others who feel equally sure about Invaders, All

Stars, Renegades, Phase II and Exodus. The point is, in this country pan has the ability to evoke a wide range of emotions. From unbridled joy at Panorama time or chipping with a pan side during Carnival, to calmness and even ecstasy when you go to one of these pan music festivals. This emotional resonance uplifts the spirit. It provides comfort to many during difficult times and it boosts our mood. I believe Dr. Vanus James did some sort of study in which he talked about the benefits of pan as a healing mechanism within communities that are downtrodden and beaten. You know, how it pulls together young men and women who might have been aimless or who may not feel good about themselves. It has enormous therapeutic potential and I think it is something we should be investigating.

11.15 p.m.

Pan fosters a sense of community and belonging. Pansides and pan concerts create shared experiences and they strengthen social bonds. Overall, whether it is simple as identity, a common symbol around which Trinbagonians can rally, whether we use the pan in our diplomatic missions, at international organizations and other forums to represent our nation officially, whether we use the pan in promoting tourism and enhancing this country's brand image, the steelpan has had a multifaceted impact on our population, making it a powerful tool for inspiration and motivation in various aspects of life.

National emblems are a declaration of a country's sovereignty and independence. They are a reminder of who we are as a people, our autonomy and our determination. Designating the steelpan as our national instrument is a deserving accolade. It is long overdue, and I feel honoured and privileged to be a part of this legislation. I thank you.

Hon. Senators: [*Desk thumping*]

Mr. President: Minister of Tourism, Culture and the Arts.

Hon. Senators: [*Desk thumping*]

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Mr. President. Mr. President, allow me, as I begin my wind-up, to thank all hon. Members who have joined in this debate, who have contributed in this debate, on this very momentous and historic occasion. Mr. President, first, I would like to thank my colleague on this Bench, Sen. Hislop, and for speaking in support of the Bill—we all support the Bill—but in bringing the debate back to the level of dignity that this—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—debate and this piece of legislation deserves. On the Senate Bench, I would like to thank Sen. Francis for his valuable contribution, I would like to thank Sen. Dr. Patasar, and if I could just answer both of your concerns together. Sen. Maharaj helped me in answering the claim: What is the problem that this Bill comes to solve? And in clause 3, very simply, it is that persons in the steelpan movement, proud lovers of steelpan in Trinidad and Tobago and in the diaspora, felt that the steelpan should be proclaimed through a legislative process to declare it the national instrument of Trinidad and Tobago. That is the problem.

Members of the community—and it was a very loud call, even by—and just, in passing, I had mentioned—Her Excellency, the steelpan should be declared as the national instrument of Trinidad and Tobago. But the fourth clause is very instructive. So what we have done here in this fourth clause, by giving:

“The Minister...”—with—“...responsibility for culture...”—to prepare and lay—“...in Parliament, every two years...a report on the recognition, status, promotion, development and impact of Steelpan at national, regional international levels...”

—what we have done here, we have placed a positive obligation on the Minister of Tourism, Culture and the Arts, the Ministry with responsibility for Culture, Tourism and the Arts, to scan the entire environment, whether it is work by Pan Trinbago, the work of all the individual steelbands, the work of the manufacturers, the pan tuners, the work of the IP Office, everybody, and put it in a report and lay it in the Parliament, so that the people's representatives, who are Members of Parliament, on behalf of the people who they represent, can now examine everything within the report.

So we have created a level of accountability across the board and we have also placed a responsibility on everybody who is involved in the steelpan movement to report on the advancement of the steelpan. That is what is very instructive here. So whether it is the executive of Pan Trinbago, they will be held accountable by a report. Whether it is the Ministry with responsibility for Culture, Tourism and the Arts, they will be held responsible. The Minister of Tourism, Culture and the Arts, the party in office at the time, everybody will held accountable and it can be examined by a joint select committee of the Parliament, or the media, or anybody else to hold persons accountable.

Sen. Maharaj: I thank Sen. Maharaj for her contribution and for her perspectives that she has shared. Of course, we look forward to you bringing back the Motion for some more extensive discussions on the matter. This is a matter that we should continue to discuss: What do we do with this magical and beloved instrument we call the steelpan. So we look forward to that.

As I go to the Opposition Benches, Mr. President, I will tell you that I am not surprised by the contribution from Sen. Wade Mark. Notwithstanding all the joust that we have, and the back and forth, and the banter and so on, Sen. Wade Mark is an experienced parliamentarian, and with that experience, comes an

appreciation for the moment, some level of dignity, and he felt impelled—and we accept and we appreciate that—to place on record his appreciation and his support for this Bill brought by this Government, notwithstanding our, at times, very adversarial encounters and we appreciate that. So I join with him with his contribution, but I depart where he spoke about—what was it?—the local content policy.

Yes, there was a draft policy developed by the UNC—and I had sight of it—and they had done, it seemed, a considerable amount of work, but they pursued it no longer. While me, personally, we, on this side, we would love to see more local content on our airwaves. Whether it is television or the radio, the fact of the matter is—and I believe that the United National Congress departed very quickly from that position when they saw how significantly, how seriously it affected persons' constitutional right to the enjoyment of property.

Now, if Sen. Mark, right now, is willing to give that undertaking that he will give us the requisite three-fifths majority, where we can bring legislation to dictate, or put into legislation rather, a local content policy, well, we will listen to you and we will work together and we will do that. But you all do not have a good record at all of supporting any government initiative that requires a special majority. None. But if, again, you are willing to speak on behalf of your party to give support to that type of legislation, well, we will listen to you and we will definitely support it, because we too feel that it should be put into legislation.

Mr. President, then we come to Sen. Nakhid. Mr. President, Sen. Nakhid says he loves pan. Mr. President, you know in the other place when I did this, I became a little rambunctious, a little less—

Sen. West: I cannot imagine that.

Sen. The Hon. R. Mitchell:—a little below standard that I usually uphold, and

you know I uphold very high standards.

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Mitchell: I became a little rambunctious and I do not want to become so today, but Sen. Nakhid says he loves pan. You know, if it is Sen. Nakhid loves pan, I rue the day, for example, if somebody invites Sen. Nakhid to a wedding and gives him a microphone and asks him to say a few words, union “buss from de start”, you know, if you love pan.

Sen. Nakhid went about his entire contribution—and you know his entire contribution was everything about himself, about me, “I know pan; I love pan; you doh love pan more than I love pan; you doh care bout pan; I love pan; I love Desperados; whoever else you love, well, we doh care bout you.” And, you know, it was so trite—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—and so childish. I mean, we sat here and we listened to him—you know, Mr. President, it is like when you are in primary school and two children—I mean, you and your colleague, “My daddy car better than yours.”

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Mitchell: “No, my daddy better than yours.” “I know more about America than you.” “I know more pan than you.” Mr. President, this is not about knowing more than anybody else about pan. This is not about being inside the Desperadoes—the bowels. This not about that. Okay, you love Desperadoes more than I love Desperadoes. I respect Desperadoes. I love every steelband in Trinidad and Tobago, every single one.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: As a matter of fact, the people of Pan Trinbago will always laugh because every time I go into a panyard, I declare, “I am a Despers

man,” or “I am a Renegades man.” I always declare it and I collect my T-shirts.

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Mitchell: I love all. The pan I support, a very little somewhat unknown panside/steelband in Pleasantville, Kalomo Kings. I support them.

So while they asked Sen. Nakhid for support and he declined them support, Kalomo Kings, in the T-shirts they are wearing, my logo is on their backs—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—a company I own. I will also say to Sen. Nakhid, Sen. Nakhid, “doh” feel sorry for me. Never feel sorry for your intellectual superior.

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

Sen. The Hon. R. Mitchell: Never. You start bad there. Sen. Nakhid also spoke about, “When the UNC comes back in power, we will give you \$1,000. We will give you more money when the UNC comes back in power.” You know, it is a signal that the UNC always gives, “Bring us back in power, we go geh yuh more money. Bring us back in power, we go give panman more money.” But panman does not make \$500, you know. The Government offers and gives \$500, but panman makes more than. Panman makes more than that, and if you do not know that, you do not know pan.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: But we accept and we will always strive for panmen to make more and more money. We want that on this side. We want that, but this is not about—you see, that is what they do, you know, sit up like massa and say, “We will give you more money, vote for us. We will give you more money, vote for us.” And when they are in power, “Ay, we giving yuh this money. If you do not vote for us, we ain’t go geh yuh nothing.” That is what they do, but that is not

what we do.

It is about empowering the steelpan movement—

Hon. Senators: [*Desk thumping*]

11.30 p.m.

Sen. The Hon. R. Mitchell: It is about empowering steelband sides, walking hand in hand with them to ensure that they are in control of themselves and are able to dictate their future. It is to make them independent, not dependent on the State and that is why today, we had to be very firm and with many of our non-governmental organizations such as Pan Trinbago and Pan Trinbago is one of the leaders, they have their audited financial accounts. You know what it is to have audited financial accounts to show that you are accounting to all of the sponsors, the Government, to everybody who contributes?

And what you did today, Sen. Nakhid? Of course, you did not take note from, of course, the very experienced Sen. Mark. What you did in your contribution is that you denigrated the entire pan movement. You denigrated it and that is what we always strive not to do, create no bacchanal in pan. Because there has not been bacchanal in pan for the last five or six years. And you know what that has done? All of the sponsors have come lining up wanting to become a part, fighting to get involved in pan again. That is what that has done. That is what that has done.

You know he speaks about—you know, Members have spoken about the “badjohnism” and what they do not mention, it is Dr. Eric Williams, father of the nation, it was PNM policy to go into the panyards to speak with the pan movement to get rid of this whole “bad john” culture. It is the PNM that did that.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: It is the PNM that encouraged and brought sponsors

into the pan movement. It is the PNM that got the steelbands to organize themselves, move away from the “badjohnism”, accept the value that you can create in the communities, accept that.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: It is the PNM. Of course, as he declares his love for the Desperadoes panyard as my colleagues Sen. Hislop indicated, it is the PNM that “build de one up on top de hill”.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: And it is the PNM that spent \$20 million to build the one down in the centre of Port of Spain.

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

Sen. The Hon. R. Mitchell: Not the UNC, it is the PNM and it is the best panyard in all of the world.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: The best. And it was 13 million—

Hon. Senator: Fourteen.

Sen. The Hon. R. Mitchell: The first price and then we extended it because Desperadoes wanted an extension because they indicated and it would give them a little more sustainability, they could do more with the car park and so on and we did that. We did that, for Desperadoes, Mr. Desperadoes.

Sen. Nakhid: That is right.

Sen. The Hon. R. Mitchell: Ungratefulness worse than witchcraft.

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

Sen. The Hon. R. Mitchell: Mr. President, you know we too—talking about the UNC will bring pan manufacturing. “Aye”, that is a place for the private sector. What the Government does, if you do not know about government policies,

Government incentivizes, they are facilitators, they create an enabling environment.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: And it is the same Minister of Trade and Industry whom you like to insult and her incentives created a whole pan manufacturing in the form of MITTCO—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: —making Trinidad and Tobago proud all over.

Sen. Lezama-Lee Singh: Where the students going.

Sen. The Hon. R. Mitchell: I mean the pan case comes in a Trinidad and Tobago flag. That is Government, PNM Government incentives that did that.

And IP. Sen. Vieira, we have been doing some work in IP but by the very nature of the work that you do in IP, it has to be secret and it has to be confidential. Because you see in this country, there are some unpatriotic infidels and they often wear yellow—

Hon. Senators: [*Laughter*]

Sen. The Hon. R. Mitchell: —and I do not have to call the acronym because you cannot discuss it because the very nature, you have to keep it secret.

So let us talk about this land business now. You know he spoke about Fuad Abu Bakr. You know, Mr. President, Fuad Abu Bakr is not even a member of a steelband? He is not even a member of the steelband so he is not a member of Pan Trinbago. The steelpan he claims to be associated with, “bush tall high, high so”. He is not a member of the steelband. You have to be a member. Pan Trinbago is governed by a constitution, you have to be a member and if you read the constitution and understand the constitution, decisions are made in a particular way.

But Fuad Abu Bakr told him something about the Government taking away Pan Trinbago land. Okay, let us go into that. So Eric Williams of the PNM gave the National Steelband Association which is the predecessor to Pan Trinbago, two acres of prime property in Chaguaramas in 1974. Two acres of prime property, waterfront, in Chaguaramas. In comes the UNC, hustle the people out of their prime property down in Chaguaramas. In fact, I believe they are still paying the water rate, Pan Trinbago that is, for the property down in Chaguaramas but “they hustle them out”, take it back to the CDA.

So I have an article in my hand written by Terry Joseph published in the *Express* 18th of November, 2001. The title is:

“PM: Govt will build pan headquarters

At the handing over ceremony for a parcel of land to Pan Trinbago, Prime Minister Basdeo Panday stated that his Government would fund the cost of constructing the organisation’s headquarters on the site. In his feature address Panday stated ‘you come up with the plan for your headquarters and I will find the money to build it.

The eight-acre parcel of land is located along the Churchill Roosevelt Highway.”

Eh? You pass by the Churchill Roosevelt Highway and see what was left there? That is UNC. “And you talkin bout mamaguying people, mamaguying the panman?” That is UNC.

Let us fast forward please because we do not have much time, to 2011, the *Express* by Cherisse Moe, the title is:

“Pan Trinbago to get \$7m to finish its HQ”—headquarters

This is 2011.

Sen. West Who was in power?

Sen. The Hon. R. Mitchell: Around the same time—was around, no, it was 2013 when he was calling the UNC morass, two years before. In the *Express*:

“Prime Minister Kamla Persad-Bissessar says Government has allocated \$7 million for the completion of Pan Trinbago’s headquarters in Trincity. Construction at the facility...Prime Minister made the announcement on Tuesday during her visit to Petrotrin Phase II Pan Grove panyard Woodbrook. She also visited four other panyards, Witco Desperados...All Stars, CAL Invaders and...Exodus, where she met spectators and took make pictures...”—and so on.

This was in 2011. Sen. Nakhid, did the then Government—was the Member for Siparia’s promise ever fulfilled? Did they get \$7 million to finish its headquarters? I will sit, you know, and I will give you way. You will tell me. Okay, “ah change meh mind”. And you know, you are sitting next to Sen. Jearlean John. You know, Sen. John knows all about this.

Sen. John: Me?

Sen. The Hon. R. Mitchell: —because UDeCOTT was involved.

Hon. Senators: [*Laughter and interruption*]

Sen. The Hon. R. Mitchell: UDeCOTT was involved. UDeCOTT was involved in the mamaguy.

Hon. Senators: [*Laughter and interruption*]

Sen. West: And you sitting down there quiet.

Sen. The Hon. R. Mitchell: Also in 2011, this was an article in Jyoti Communication also confirming that:

“...Government has allocated \$7 million...”

Well we know Government never allocated, never gave it to Pan Trinbago, nothing was built. But here is what is very instructive. Pan Trinbago:

“...was part of the administration...”

This is Persad-Bissessar saying, I mean the Member for Siparia:

“...was part of the administration that allocated the lands to Pan Trinbago.”

These are the lands in Trincity.

“In our last administration, I was the minister of Legal Affairs and I had control of Lands Registry and I was given that blessing to give Pan Trinbago the lands for the pan headquarters. That was more than 10 years ago...”

Let us fast forward to 2023, because you heard it from the hon. Prime Minister, then Prime Minister, Member for Siparia’s lips that she was the one who executed this desire to give Pan Trinbago this land in Trincity.

Fast forward to 2023 and I could give you a little back story. Pan Trinbago, looking to understand their status on the land because they do not have any documents. There was a gentleman named Peter Kanhai who was the Assistant General Secretary of Pan Trinbago. They booted him out of office and he kept all the documents to himself, refusing to reveal or to deliver up any of the documents the Pan Trinbago. So what does Pan Trinbago do? They go to a law firm and say, “Mr. Law Firm, can you do some searches for us? We need to understand what is our status on this land.” So they go to Keystone Law and on the 15th of March, 2023, they are given an opinion.

Now, Mr. President, I just told you, the Member for Siparia:

“...was part of the administration...minister of Legal Affairs and had control of the Lands Registry and...was given that blessing to give Pan Trinbago the land for...pan headquarters.”

Here is what the opinion says. Report on title:

A perusal of the mother certificate of title in name of Orange Grove National

Company Limited in Volume 1995, Folio 253...

It is RPO land if you do not know.

...shows that a certificate of title for the subject parcel of land in favour of Pan Trinbago Inc. T.C. was never issued by the Registrar General of Trinidad and Tobago. As such, transaction is not endorsed thereon.

Go further:

In fact, to date, there are 95 endorsements on the mother certificate of title showing leases from the Orange Grove National Company Limited to various parcels of the larger parcel of land at Tacarigua to several leasees but none of these endorsements show that Pan Trinbago Inc, T.C. is a leasee.

And we know that. We know that a lot of other people have title to land in that area, they have leases. It goes on to conclude:

The current position as regards the subject parcel of land...

This is the land down in Trincity.

...is that Pan Trinbago Inc T.C. does not have any legal ownership of the subject parcel of land and as such is not in a position to conduct any legal transactions or have legitimate dealings concerning same without the relative certificate of title.

Rambunctious is as rambunctious does. I did not want to read this here you know but I have to correct the record and I have to show the steelpan movement, pan people outside of there, what the UNC is and what they stand for.

Hon. Senators: *[Interruption]*

Sen. The Hon. R. Mitchell: That is what we do.

Hon. Senator: Exactly.

Sen. The Hon. R. Mitchell: That is what we do.

11:45p.m.

And of course, we, in discussions with Pan Trinbago, and having those discussions, we have decided to put a cricket academy on it. We have discussed it with Pan Trinbago, and in those discussions, we say, Pan Trinbago, you have a piece of land here for 23, 24-odd years, and you have not done anything with it. There is a monstrosity on the site. The steel is not good. Peopling cutting out the steel and selling the steel. They are selling the steel as scrap iron. You cannot manage the land. But here is what, we do not think that you should be down in Trincity down there. Pan was created in east Port of Spain in the capital city.—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: Therefore, the world governing body, headquarters for the steelpan of the world, should be in the capital city. Where did we allocate them in exchange? On Wrightson Road by the old post-office building. If you are to do a valuation on that land and you are to write out the value of the valuation of that land, Sen. Nakhid will stumble three times before he could call out those digits.

Sen. Nakhid: Intellectually superior nothing. [*Inaudible*]

Sen. The Hon. R. Mitchell: That is what they have done. We will continue to develop the steel pan movement, and walk side by side, and promote the steelpan in Trinidad and Tobago.

You are talking about pan in schools. Let me read another article because “you now come”, and it seems as though your ability to look backwards is an inability. So let us go. An article in the *Express*: “Will we restore Pan in the schools?” It is written by Mervyn Crichlow. I know Mervyn Crichlow, I think he was attached to the Minister of Education at some point in time. And he goes on to say:

“The nucleus of a Pan in the Classroom Unit at the Ministry of Education

was developed, and specially qualified tutors hired to teach pupils the rudiments of the pan. A course in the making of pan was incorporated into the ministry's curriculum through the Caribbean Vocational Qualifications. The process of establishing steel orchestras in schools was nevertheless, pedantic, very slow..."

But here is what he says, Mr. President:

"The pan in the Classroom project received a fatal blow 2011 when it was discontinued and the process of putting steel orchestras in the schools continued to limp along."

Mr. President, 2011. Sound and fury, but at least know exactly what you are talking about when you come and put things on the *Hansard*. While they will boast about giving pan all this big amount of money, Mr. President, I think I glimpsed you, or maybe I did not. Panorama Semi-Finals 2024 was perhaps the biggest Panorama in all of its history. The firemen were coming and threatening to shut down the entire thing because there were simply too many people in this smaller space.

We now have to consider, do we move back to the north stand and create more spaces, create a bigger stage, and put larger screens to accommodate all the people who want to come to see and to experience panorama? You talk about pan in schools, and we take away pan in schools. You know what threatens the Panorama Semi-Finals as the biggest event in Carnival? The Secondary School Panorama Finals and the Junior Panorama Finals.

Hon. Senators: [*Desk thumping*]

Sen The Hon. R. Mitchell: Mr. President, it is so large that when the primary schools finish, we have to tell all the parents and all the teachers of all the primary schools that you have to leave or else the firemen will shut it down. It is too large,

and all of these young citizens of Trinidad and Tobago come out, and they cheer and they scream louder than you could ever scream or anybody could ever scream for Desperadoes. That is the enthusiasm that our young people have for steelpan, and that, with those young people in mind, that is why we are doing this here today.

Hon. Senators: [*Desk thumping*]

Sen The Hon. R. Mitchell: So, Mr. President, I will really again wish to thank all the Senators for contributing, both Houses. I thank you, notwithstanding your quality, but I thank you Sen. Nakhid. I know that you are a lover of pan. I know that you love—

Sen. Richards: If I could just—from the bottom of my heart to end with some joy on this momentous occasion.

Hon. Senators: [*Crosstalk & laughter*]

Sen The Hon. R. Mitchell: I assure Sen. Dr. Richards that I am not permanently rambunctious. I have some joy in my heart, and I was just about to embark upon that by thanking the Members of this House and thanking the Members of that House for contributing to this Bill and joining with the Government to make this a reality. I was mentioning that Sen. Nakhid—I know he is a lover and I know that he is a lover of Desperadoes.

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

Sen The Hon. R. Mitchell: Thank you, Mr. President. This is really a momentous occasion, and just a little personal touch from me, I am privileged to be the Minister with responsibility for culture at this time.

Hon. Senators: [*Desk thumping*]

Sen The Hon. R. Mitchell: It is really not, Sen. Richards, it is not about me knowing all about pan and going back into the under the breadfruit tree where they

were pounding the pan, and the man with the hammer, it is not about that for me, you know. It is about understanding what our forebears have done in creating this. In understanding my short role in the history of steelpan, as the Minister with responsibility for culture, and doing all that I can, doing all that the Government could on this side, and inviting you all to join with all of Trinidad and Tobago of doing what we can in this moment of time to advance the steelpan in Trinidad and Tobago—

Hon. Senators: [*Desk thumping*]

Sen The Hon. R. Mitchell:—regionally and internationally. With those few words, I thank you.

Hon. Senators: [*Desk thumping*]

11.55 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 4 ordered to stand part of the Bill.

Preamble approved.

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

Senate resumed.

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

Mr. President: Leader of Government Business.

ADJOURNMENT

The Minister of Foreign and CARICOM Affairs (Sen. The Hon. Dr. Amery Browne): Mr. President, I beg to move that this House do now adjourn to Friday,

Adjournment (cont'd)

Thursday, July 04, 202

July 5th, 2024 at 1:30 p.m.. The Government proposes to continue the debate on the Miscellaneous Provisions (Judicial and Legal Service) Bill, 2024.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 11.57 p.m.