

HOUSE OF REPRESENTATIVES

Wednesday, March 04, 2020

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from Mr. Ganga Singh MP, Member for Chaguanas West, who has requested leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID

1. Consolidated Financial Statements of First Citizens Holdings Limited and its Subsidiaries for the financial year ended September 30, 2019. [*The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert)*]
2. Audited Financial Statements of InvesTT Limited for the financial year ended September 30, 2019. [*Hon. C. Imbert*]
3. Audited Financial Statements of MIC Institute of Technology Limited for the financial year ended September 30, 2018. [*Hon. C. Imbert*]
Papers 1 to 3 to be referred to the Public Accounts (Enterprises) Committee.
4. Response of the Teaching Service Commission to the Fourteenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on Sexual Harassment in the Education Sector. [*The Minister of Health (Hon. Terrence Deyalsingh)*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

State Enterprises

UNREVISED

Mr. Fazal Karim (*Chaguanas East*): Thank you very much. Madam Speaker, I have the honour to present the following reports: **Community-based**

**Environmental Protection
and Enhancement Programme**

Twelfth Report of the Joint Select Committee on State Enterprises on an Inquiry to assess the performance of the Community-based Environmental Protection and Enhancement Programme and its operations.

MIC Institute of Technology

Thirteenth Report of the Joint Select Committee on State Enterprises on an Inquiry into the operations of MIC Institute of Technology with specific reference to the high drop-out and failure rate of its trainees.

**Land and Physical Infrastructure
Non-Traditional Methods of Farming**

Mr. Rushton Paray (*Mayaro*): Thank you very much, Madam Speaker. Madam Speaker, I have the honour to present the following report:

Ninth Report of the Joint Select Committee on Land and Physical Infrastructure on an Inquiry into the Policies for the Promotion of Non-Traditional Methods of farming including Digital Farming Technology.

URGENT QUESTIONS

**Drowning of Two Foreigners
(Presence of Lifeguards)**

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker, to the Minister of National Security: With respect to the recent drowning of two foreigners at a beach in Cumana, could the Minister indicate whether there were any lifeguards on duty at the time?

The Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much, Madam Speaker. Madam Speaker, firstly and very quickly, I would like to take this opportunity to extend deep and sincere condolences to the family members of the deceased who died on Sunday at the Cumana/Toco Beach at about 4.00 p.m.. The wife ran into difficulty and the husband—Trinidadians living in Canada I understand—and they both disappeared under the water. So my condolences on behalf of the Government and people of Trinidad and Tobago to them.

Madam Speaker, in 2015, life guard services were placed under the remit of the Ministry National Security and currently lifeguard services are provided during the hours of 10.00 a.m. and 6.00 p.m. at Los Iros, Vessigny, Quinam, Mayaro, Manzanilla, Salybia/Matura, Salybia/Toco, Maracas, Tyrico and Las Cuevas. And unfortunately, Madam Speaker, at the beach at which this horrific incident transpired, lifeguard services are not, at this time, provided thereat.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Madam Speaker, we too would like to extend condolences to the families of the victims, persons who died.

Could the Minister advise whether it is the practice to increase the number of beaches patrolled by lifeguards on holidays, when large numbers of citizens visit our beaches?

Hon. F. Hinds: Madam, as I indicated, we have lifeguard services provided from 10.00 a.m. to 6.00 p.m. at the locations I identified on a daily basis at those particular locations.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Is it the practice to increase that at all, or is that fixed in stone, when the demand increases on holiday occasions?

Hon. F. Hinds: I described that which now subsists, Madam Speaker, and of course this is subject to change as information and circumstances might warrant from time to time.

COVID-19

(Existence of Confirmed Cases)

Dr. Tim Gopeesingh (*Caroni East*): Thank you Madam Speaker, to the hon. Minister of Health: Could the Minister confirm or deny whether at this time there are any confirmed cases of COVID-19 infected persons in the country?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, information from CARPHA as at March 03, 2020, reveals that from six member States, including Trinidad and Tobago, they received tests to conduct on 26 patients and to date, including today, all tests so far have been returned as negative. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Dr. Khan: Minister, could you indicate if there was a suspected case of COVID-19, why was it transported to Port of Spain Hospital and not to the quarantine centre?

Hon. T. Deyalsingh: Thank you very much. Hon. Member, as you know, even under your tenure, during the flu season all suspected flu cases would be dealt with at the hospitals. If the clinician determines that, clinically speaking, something needs to be referred to Caura, it will be done so.

In this particular case with the Canadian, I am told by the Chief Medical Officer there was no suspicion of the COVID-19. Therefore, he was treated as any other flu patient presented to a public institution.

What is happening, Madam Speaker, is that unfortunately there is a lot of panic going around—[*Crosstalk*] Yes, but we have no cases here as yet. We have

to make sure we act rationally and reasonably. Because what is happening because of the panic, you are getting panic buying of masks in the private sector, which are now leaving doctors and nurses in the private sector exposed, because they cannot get masks and they need the masks more than members of public. That is what I talk about panic. There is a need for concern. There is a need for heightened vigilance. But, as leaders in the society, you must never succumb to panic, because when you panic, your decision making becomes flawed. So let us be concerned. Let us have heightened vigilance, but never panic. Panic is a dangerous attribute which will not serve us well. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Caroni East.

Dr. Gopeesingh: Thank you very much. Hon. Minister, would you kindly consider giving active consideration to the establishment of a hotline for access to citizens who may consider themselves in danger, by virtue of their symptoms, as is done in other countries now so that more properly equipped personnel could go to their home, rather than them having to go to an institution?

Madam Speaker: As laudable as that may be, Member, I cannot allow that as a supplemental question.

Dr. Khan: Hon. Minister, 23 politicians have been infected in Iran and one close aide to Ayatollah Khomeini has died, because of the coronavirus and the movement out of Iran, because of the politicians. Would it be prudent to say that now is a possible time to curtail Government from travel as a result of those types of statistics?

Madam Speaker: Minister of Health.

Hon. T. Deyalsingh: Thank you. Madam Speaker, at last week Thursday's post-Cabinet Press Conference, the Minister of National Security said just that; that the

Cabinet took a decision that all non-essential travel of Government personnel will be curtailed as of last week Thursday. It has now drilled down. I could tell you, at the Ministry of Health, I, this week refused two requests to travel, one to Santo Domingo and one to Washington. So we have actively engaged that and that has been done. Thank you very much.

Madam Speaker: Member for Couva South.

**Bankers Association of Trinidad and Tobago Statement
(Counterfeit Polymer \$100 notes)**

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker, to the Minister of Finance: Based on statements made by members of the Bankers Association of Trinidad and Tobago yesterday, confirming that counterfeit polymer \$100 notes have been in circulation since December last year, could the Minister state what is the Government's plan to deal with this, given that one of the reasons for switching to the polymer note was to address counterfeiting?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. There has been no statement from the Bankers Association that counterfeit polymer notes have been in circulation since December last year. That is misinformation propagated by a daily newspaper. I spoke to the President of the Bankers Association myself and she indicated that no such statement has been made to any newspaper.

What was told to a newspaper by a person who is in charge of security matters at one of the banks, was that he saw a video on social media, which all of us have seen. Somebody created a video on social media, saying: "Look how", you know, "I am copying the notes." We do not even know if that video was real. We do not even know if it was fabricated, we do not even know if it was concocted. What we do know is that the Bankers Association never said that

counterfeit \$100 bills have been in circulation since last December. That is simply untrue.

And what the Bankers Association has told me is that the issue of counterfeiting is a regular occurrence all over the world. People always try to counterfeit money. They tried to counterfeit the old bills and obviously in the future they will try to counterfeit the new bills.

The good thing is that the new bills have far more security features than the old bills and are far more difficult to counterfeit than the old bills.

Mr. Indarsingh: Thank you, Madam Speaker. Mr. Minister, taking into consideration that there was a headline in yesterday's newspaper, *Trinidad Guardian*, "Fake one hundred notes", is the Government moving forward with its plan as it relates to the demonetization or issuance of polymer notes, as it relates to five dollars, tens, twenties and fifties and so on? Could you advise this honourable House?

Hon. C. Imbert: Madam Speaker, that is a completely different question, but I am glad the hon. Member brought it up. So a newspaper put something on a front-page and says "fake bills". If the hon. Member had read the story—[*Interruption*] Madam Speaker, what is this? What kind of behaviour is that?

Madam Speaker: Member for Couva South, you have asked a question and I certainly want to hear the answer. Minister of Finance.

Hon. C. Imbert: If the hon. Member had read the story, it said that the person who allegedly brought the alleged fake bills wished to remain anonymous. There is no source. How does one know the entire story is not a concoction?

As I said before, as I said before, Madam Speaker, through you, the security features on the new bills are far more robust and far better than the old bills. Counterfeiting is something people have tried since time immemorial and they will

try it again. However, the polymer nature of the bills, the clear, transparent window, the braille dots on it and the multiple inserts and other security features make the polymer bills much more difficult to counterfeit than the old cloth bills. So the issue is not anything near to what the hon. Member is suggesting.

ANSWERS TO QUESTIONS

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, there are five questions for oral reply. We will be answering all five. There are three questions for written reply. We will be answering No. 32, No. 33 and we ask for a two-week deferral for No. 37. Thank you very much.

Madam Speaker: No. 37 is deferred for two weeks. I now call on the Member for Pointe-a-Pierre.

Mr. Lee: Thank you, Madam Speaker. Question No. 34 to the Minister of Energy and Energy Industries.

Madam Speaker: Minister of Energy and Energy Industries.

Mr. Imbert: Could I just get some clarity? So 32 is deferred or something; 32?

Madam Speaker: This is No. 34.

Mr. Imbert: I know.

Mr. Deyalsingh: It is written.

Mr. Imbert: So 32 is now gone to be written? Okay, thank you very much. Thank you.

WRITTEN ANSWERS TO QUESTIONS

Small Business Development Incentive programme

(Details of Grants)

32. Mr. David Lee (Pointe-a-Pierre) asked the hon. Minister of Trade and Industry:

UNREVISED

With regard to the Small Business Development Incentive programme referenced in the Budget Statement 2019, could the Minister state:

- a) the number of grants issued as at December 31, 2019;
- b) the total value of the grants issued in part(a); and
- c) the list of grant recipients and the value of each grant in part (a)?

Agricultural Financial Support Programme

(Details of Grants)

- 33. Mr. David Lee** (*Pointe-a-Pierre*) asked the hon. Minister of Agriculture, Land and Fisheries:

With regard to the Agricultural Financial Support Programme referenced in the Budget Statement 2019, could the Minister state:

- a) The number of grants issued as at December 31, 2019
- b) The total value of the grants issued in part (a); and
- c) The list of grant recipients and the value of each grant in part (a)?

Vide end of sitting for written answers.

ORAL ANSWERS TO QUESTIONS

Paria Fuel Trading Company

(Credit Facility)

- 34. Mr. David Lee** (*Pointe-a-Pierre*) asked the hon. Minister of Energy and Energy Industries:

With regard to reports that Paria Fuel Trading Company obtained a one month credit grace period to pay its international fuel supplier, could the Minister provide the reasons that the company was unable to secure a long term credit facility with its international fuel supplier?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): The question is based on a false premise. The current arrangement with international fuel suppliers is a long-term revolving credit facility for the duration of the supply contract. For each cargo purchased, Paria is given 30 days credit. The 30 days credit starts from the delivery date. Various credit terms are applied internationally and 30 days credit is one of the more common standard terms.

In some instances, Paria stipulates in their contracts a minimum and maximum of cargos to cater for projected growth in demand. But the bottom line is that the credit that is advanced to Paria, after they receive a shipment of fuel is 30 days. But the arrangement with the supplier is long-term.

Madam Speaker: Member for Pointe-a-Pierre.

Paria Fuel Trading Company

(Monthly Foreign Exchange Expenditure)

35. Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Energy and Energy Industries:

With regard to Paria Fuel Trading Company, could the Minister provide the average monthly value of foreign exchange used for the purchase and importation of fuel since the company came into operation?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): The average monthly value of foreign exchange used for the importation of fuel for domestic use is US \$60 million. Of this amount, Paria is provided by Heritage Petroleum with US \$40 million per month earned from the export and sale of crude oil.

In addition, Paria also imports approximately US \$50 million per month worth of fuel to supply the regional market. However, this does not increase

foreign exchange consumption since regional customers pay for their fuel from Paria in US dollar currency.

Madam Speaker: Supplemental, Member for Caroni East.

Dr. Gopeesingh: Hon. Minister, would you be kind enough to give us information? How many suppliers are there to Paria and what value, if there are more than one suppliers?

Madam Speaker: I would not allow that, Member for Caroni East, as a supplemental question.

Madam Speaker: Member for Fyzabad.

Cannabis

(Introduction of Courses)

41. Dr. Lackram Bodoie (*Fyzabad*) asked the hon. Minister of Education:

With regard to the decriminalization of cannabis, could the Minister state whether there are plans to introduce courses on the medicinal use of cannabis to medical students at the Faculty of Medical Sciences, University of the West Indies?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Madam Speaker, the Ministry of Education has been advised that the use of cannabis and its effect on humans is taught in the pharmacology course within the BSc Pharmacy Degree at the University of the West Indies, St. Augustine.

Additionally, research regarding cannabis has been conducted at the University of the West Indies, Mona Campus for the past few years. Given the embryonic state of cannabis decriminalization, there are no immediate plans to introduce courses on the medicinal use of cannabis at the Faculty of Medical Sciences, University of the West Indies, St. Augustine.

One must be cognizant of the care and the due diligence required to ensure policies and guidelines are thoroughly outlined before the introduction of courses and the related issues, such as access lights and storage of the material itself, which would be associated with such offerings.

The Ministry of Education is confident that the University of the West Indies will always seek advancements in programme offerings and will continue to act in the best interest of the population. Thank you.

Madam Speaker: Supplemental, Member for Fyzabad.

Dr. Bodoë: Thank you, Minister, for that answer. Minister, can you say if there is a public education programme in schools with regard to the issue with marijuana; public education programme in schools at the present time? Or is there an intention to create?

Madam Speaker: I would not allow that as a supplemental question. Member for Fyzabad.

Caroni Licensing Office

(Employees' Working Hours)

42. Dr. Lackram Bodoë (Fyzabad) asked the hon. Minister of Works and Transport:

Could the Minister provide the working hours for employees at the Caroni Licensing Office, Transport Division of the Ministry of Works and Transport?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. Madam Speaker, the working hours of the employees of the Caroni Licensing Office, Transport Division of the Ministry of Works and Transport are 8.00 a.m. to 4.00 p.m. Monday to Friday. Thank you.

Madam Speaker: Supplemental, Member for Fyzabad.

Dr. Bodoë: Thank you, Madam Speaker. Minister, in view of a video that circulated, suggesting that there was just one employee on duty on Friday 03 January, 2020, and there was a significant line up of the public waiting for service, can you indicate whether an investigation was conducted into this matter?

Madam Speaker: Minister of Works and Transport.

Sen. The Hon. R. Sinanan: Madam Speaker, I did ask for a report on that video that was circulated. However, the indication was that there was a long line, but the line was for going to several different areas. Everybody was not lining up just for cashing. However, from time to time we do have challenges with employees, not only at the licence office but in different areas and what we are doing at the licensing office to eliminate that from happening going forward is, one, we are upgrading the cash register system, which will eliminate the cashbooks. That would shorten the time spent by the cashier. Two, we have submitted a list of employees to the Comptroller of Accounts who can act as cashiers in the event that there is a shortage in that area. And, three, we are about to launch the kiosk at the licence office where, you do not have to necessarily go to the cashier if you want to pay with LINX or very soon credit cards. You go to the kiosk and you do your transaction there. That will eliminate the whole purpose of having to go the lines. Thank you.

Madam Speaker: Supplemental, Member for Fyzabad.

Dr. Bodoë: Thank you, Minister. Minister, can you indicate how soon you anticipate that this kiosk will be available?

Madam Speaker: Minister of Works and Transport.

Sen. The Hon. R. Sinanan: Madam Speaker, as I said, we are in the process of upgrading the cash register system. The kiosk and so have already—that process has already started. And like everything else at the licensing office, we are

modernizing the entire license office with the demerit point system and all the activities that take place there.

So I can give you the assurance that very soon you will see; the activities have started. I would say within the next two to three months you will be able to go to license office and utilize the kiosk, rather than having to take the lines at the cashier, once you are paying with credit card or LINX. Thank you.

**Administration of Justice (Electronic Monitoring) Act, 2012
(Proclamation Status)**

43. Dr. Lackram Bodoie (*Fyzabad*) asked the hon. Attorney General:

Could the Minister provide the current status of the proclamation of the Administration of Justice (Electronic Monitoring) Act, 2012?

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, the Administration of Justice (Electronic Monitoring) Act, No. 11 of 2012 was assented to in 2012. Between that date and September 2015, nothing was effectively done to implement the Act. Let me repeat that. Absolutely nothing was done for several years. Subsequent to September 2015, this Government put in place necessary systems to allow proclamation. That included the establishment of the Electronic Monitoring Unit, the staffing of that unit, the occupation and outfitting of the office staff of the Electronic Monitoring Unit, a service provider engaged to provide the full turnkey solution, delivery, installation, commissioning, maintenance of that system, installation of the required hardware and software for electronic monitoring, the training of the staff of the Electronic Monitoring Unit, 300 electronic monitoring devices having been procured, and electronic monitoring committee comprising the relevant stakeholders to address the operationalization. The Electronic Monitoring Unit in conjunction with the advanced programmes training unit of the Trinidad and Tobago Police Service,

conducted training workshops for desensitization of police officers. Sensitization sessions were also conducted for probation services and the Trinidad and Tobago Prison Service.

In anticipation of full proclamation by this Government, we in fact drafted the regulations for operationalization. In the preparation of the regulations, we got comments from stakeholders, namely Judiciary and the Ministry of National Security and pursuant to those comments, it was identified that we needed to make certain amendments to the administration Act, electronic monitoring Act. We have in fact drafted those amendments.

These regulations are subject to negative resolution. We intend to lay the amendments to the Act, at the same time, in or around one week from now. So if I can repeat, absolutely nothing between 2011 to 2015. Full operationalization, procurement, personnel offices, software, training, stakeholder, GPS monitoring, we have got it done, Madam Speaker.

Madam Speaker: Supplemental, Member for Fyzabad.

Dr. Bodoë: Thank you, Attorney General. AG, are you of the opinion that electronic monitoring bracelets will be useful in the fight against domestic violence?

Hon. F. Al-Rawi: I thank the hon. Member for maybe seeing what we sent out in circulation. We have drafted amendments to the Domestic Violence Act, which specifically incorporate the use of corresponding bracelets. Persons who are the beneficiaries of ex parte or inter partes protection orders from the High Court of the Magistrates' Court, as we have amended the law to allow that, we are proposing that the electronic monitoring bracelet for the person against whom the order is given will correspond to a unit which the person who is to be protected will have. So a proximity alert will alert the persons.

Secondly, that ties into the Judiciary, the Trinidad and Tobago Police Service. So I am very grateful that the hon. Member has apparently taken sight of the legislation that we have drafted. It is out in public circulation. We are working with the NGO and several entities on this and we will ensure that that is done.

God willing, the Opposition will see it fit to actually support those amendments, because they have to date supported none of the critical amendments.

DEFINITE URGENT MATTER

(LEAVE)

COVID-19

(Vulnerability of Health Care Workers)

Dr. Tim Gopeesingh (*Caroni East*): Thank you, Madam Speaker. In accordance with Standing Order 17, I hereby request leave to move the adjournment of the House at today's sitting for the purpose of discussing the following definite matter of urgent public importance, namely the vulnerability of health care workers with respect to patients suspected of or having the COVID-19 virus infection.

The matter is definite since the World Health Organisation has declared it a global epidemic, which is now affecting countries within the Caribbean area. This development poses an imminent danger to Trinidad and Tobago's citizens, with a more immediate danger to health care workers.

The matter is urgent because health care staff are at this time inadequately prepared, through a lack of policy direction, procedures and information, including protection measures to deal with suspected and/or confirmed cases.

The matter is of public importance because of the thousands of health care workers who, if unprepared, can unknowingly transmit the virus to its citizenry. Thank you, Madam Speaker.

UNREVISED

Madam Speaker: Hon. Members, I am not satisfied that this matter qualifies under the Standing Orders. Members will take note that under Urgent Questions, matters were allowed involving the coronavirus.

2.00p.m.

**MISCELLANEOUS PROVISIONS (AGE OF RETIREMENT OF JUDGES,
INTERPRETATION AND CHIEF JUDICIAL OFFICERS) BILL, 2019**

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Thank you Madam Speaker, I beg to move:

That a Bill to amend the Constitution (Prescribed Matters) Act, Chap.1:02, the Interpretation Act, Chap. 3:01 and the Judicial and Legal Service Act, Chap. 6:01, be now read a second time.

Madam Speaker, it is absolutely true that crime is a very large, if not the largest issue in our Republic. This has been the case for decades. In 1973, in constitutional reform discussions, the then Commission wrote of a state of affairs in Trinidad and Tobago which effectively described a panicked country besieged by crime where persons feared for their lives on almost a daily basis. Fast forward, more than half a century later, we are today in Trinidad and Tobago with a larger population having the same discussion.

Governments prior to this Government produced legislation in an ad hoc fashion. Indeed, no Attorney General prior to this Government's Attorney General dared to publish a legislative agenda. The first item of business put into the Parliament in the current tenure of this Government was the publication of a legislative agenda, in a five-year period; short term, medium term and long term.

Other governments took the fight against crime by amending pieces of law. For example, as a question was just asked by the Member for Fyzabad, we had an

administration of Justice (Electronic Monitoring) Act passed in 2011, assented to in 2012 but then nothing was done by the past government in the period 2012 to 2015. The same applied for the law in respect of DNA, data protection, sexual offences, and sexual offenders registry, absolutely no form of operationalization was done.

This Government's philosophy of tackling crime in a manner that no other government has done has been based upon four premises: number one, plant and machinery; number two, people; number three, processes; and number four, the law. And if you will permit me to explain what that means. It is foolhardy, if not an exercise in insanity, to pass a law and then turn your back on it, if you do not have the place to operationalize that law, the machinery to operationalize that law, if you do not have people hired to do the work, if you do not have the processes by way of rules and structures, and weeding out the difficult roadblocks along the way, and very importantly, if you do not have the law.

That is why, Madam Speaker, this Government has been able to pass law and operationalize it almost immediately. I will give you the examples: Family and Children Division, a law which amended 19 other laws; a miscellaneous provisions on the back of that which amended 23 laws; the criminal division, a law which created an entire division to deal with the criminal caseload in our country. Those are two laws which have resulted already in the opening of the Children Court, the expansion of the Family Court, the creation of 25 courtrooms with judges, with masters, with registrars already in operation.

The Criminal Division, where we took the criminal caseload, we said to the magistrate and the judge, "Stop sharing jurisdiction where you never talk to each other." We introduced masters of the court, we introduced Rules of the Supreme Court in the Criminal Procedure Rules, and we have opened the Criminal Division.

That is to be met with in a matter of mere weeks when we open the waterfront Civil Courts, moving the Civil Courts from the Hall of Justice to the waterfront. We will yield in total, approximately— adding in the Family and Children Courts by the month of April, all things being equal, this Government will have opened 125 new courtrooms. [*Desk thumping*] Let me repeat that. We will have opened 125 new courtrooms.

How do you give relief in the criminal justice system where you are crying out for relief if a trial takes 10 to 20 years? But, Madam Speaker, we went further than that. It was not good enough to create the spaces, we hired over 500-plus people to work in the respective divisions of the Judiciary, Family and Children Division, Criminal Division.

I want you to recall the name Watson Duke. A man allegedly in support of the public servants of this country sitting in protest on the Hall of Justice steps to refuse to allow the birthing of the Criminal Division. That came and that went and 500-plus new people were added to the Judiciary allowing us, Madam Speaker, to have the benefit of new masters, new magistrates supported by five to one support staff; judicial research assistants, judicial support officers, other personnel. Five people assisting each judicial officer from Magistrate to Court of Appeal. Added further, we added in the Criminal Procedure Rules. Before that, you arrived at court, matter was dismissed, matter was adjourned, the Member for St. Augustine would know this well. It was a long waiting line in the Magistrates' Court to arrive to be told, come back another few months later, a few years later.

Madam Speaker, we added judge-only trials. The Opposition told us, "Nobody would use judge-only. Nobody charged with murder would use judge-only." I am pleased to say we have had judge-only trials where murder matters have been dealt with, one by way of acquittal; one by way of conviction and the

person convicted has not appealed and the appeal is opt.

We have had judge-only trials for money laundering matters. We have had plea bargaining introduced into this country, we made history as a country in a concluded case right now, the case of Vincent Nelson, Queen's Counsel who admitted to guilt, was sentenced and that matter has come to an end merely this week. Landmark decision of money laundering, the largest money laundering case in the history of Trinidad and Tobago completed by plea bargaining. [*Desk thumping*] Madam Speaker, let me repeat that. The largest money laundering case in the history of Trinidad and Tobago completed by a judicial process of plea bargaining.

Madam Speaker, that plea bargaining, that judge-only, the Criminal Procedure Rules, the processes of 5:1 ratio, that is what I mean by processes. In those processes, we looked to the caseload. We said that it is inappropriate to have 146,000 cases in the Magistrates' Court every year. We looked at what comprised that 146,000, we said motor vehicles and road traffic, 104,000 out. April 2nd, the demerit point system goes live and 104,000 cases in the Magistrates' Court go into demerit system. I commend the Minister of Works and Transport for giving the people of Trinidad some time to acclimatize to that law and, Madam Speaker, on December 23, 2019, we said in respect of marijuana cases, 8,500 per year, take them out of the 146,000 and that became law yielding every Monday available for the use of judicial time as opposed to charge cases for marijuana.

We went further, we said remove preliminary enquiries, 26,000 cases in the Magistrates' Court every year and have them dealt with by the Judiciary and that, as soon as the criminal courts are birth in April together with improvements at the DPP's office, that will result in 146,000 cases dropping to 8,500 cases. We hear the Opposition speak about a plan. There is no plan to equal what I have just

described, Madam Speaker, hence this Bill. This Bill appears short in measure but it is deep in impact. [*Desk thumping*] This Bill addresses the concept of judicial resources. In treating with two matters— because this Bill, even though it amends three pieces of law, it deals with two matters. The easiest matter to deal with is the amendment to section 63 of the Interpretation Act. Section 63 of the Interpretation Act is the provision that says if you have a law that says that you have regulations and you do not prescribe a breach of the regulations penalty you are subjected to a whopping \$500 fine. To avoid that ridiculously low fine, we now seek today in this Bill to amend the Interpretation Act, section 63 and instead provide that you will have a breach of regulations being subjected to a maximum of \$100,000 and a term of imprisonment not exceeding five years. That means that regulations that are breached will actually be caught by this. It will be open to a judge for maximum consideration. So that is the easy one.

Clauses 2 and 4 of the Bill are what treat with the very powerful concept of judicial resources. I noted the Leader of the Opposition in her contribution on the last occasion at Private Members' Motion borrowed a little fudge, took a little inclination out of what we are working on and started to speak about age of retirement for defence force, too late, Madam Speaker, too late because this Bill treats, in first measure before we get to that, with the judicial capacity. [*Desk thumping*]

Madam Speaker, we as a Government in watching who is going to do criminal cases,—because it is all well and good that we deal with the backlog, dropping the 146,000 to 8,500, moving judicial time around, increasing resources, but where the judges coming from? We did two things, Madam Speaker, we did the amendments to the Family and Children Division Act and we did the amendments via the Miscellaneous Provisions Act and what we did is we raised

the legislative judicial capacity in those amendments. What did we do? We said it is inappropriate if you want to tackle crime that you only have 36 High Court judges and you only have 12 Court of Appeal judges. And, Madam Speaker, we raised that 36 to 64, and we raised that 12 to 15. More than that, we went to the Constitution and we widened the pool of resources available to Trinidad and Tobago and we effectively included judges to be selected from around the Commonwealth not just certain jurisdictions, the Bar of England no longer being the sole bar of consideration.

But, Madam Speaker, we have a terrible situation anchored in sections 106 of the Constitution, 136 of the Constitution, in the Judicial and Legal Services Act, in the Constitution prescribed conditions Act. In those laws—[*Interruption*]*—*in those laws, Madam Speaker, we confine the age of retirement to judges to 65. So let me take you, Madam Speaker, to the Constitution. The Constitution is the supreme law of the Republic of Trinidad and Tobago, Chapter 7 of the Constitution treats with the Supreme Court, the Court of Appeal and the High Court. Section 106(1) of the Constitution says:

“Subject to section 104(3), a Judge shall hold office in accordance with sections 136 and 137.”

Section 136 says:

“(1) The holder of an office to which this subsection and subsections (3) to (11) apply (in this section referred to as ‘the officer’) shall vacate his office on attaining the age of sixty-five years or such other age as may be prescribed.”

Stick a pin. Section 54 of the Constitution which tells us the degrees of entrenchment for amendments to the law does not say anything other than we can amend this process of judicial age by simple majority.

The matters of prescription springboard us, Madam Speaker, into the Constitution (Prescribed Matters) Act that is Chap. 1:02 of the Laws of the Republic of Trinidad and Tobago. This Act is a very simple Act. It was birth in September 1966, it is a very short Act, it is five clauses long. In it we have the specific section 4 which has the retirement age of the Auditor General. Section 4:

“The age at which the Auditor General is required to vacate his office under section 136(1)...is sixty years.”

It provides a beautiful opportunity for us to include a new section 3A where we take the judicial age of retirement to 70 years. Why should we do that? What is commonsensical, what is important in that structure?

Madam Speaker, we did an exercise where we went around the Commonwealth and in getting to the Commonwealth, we looked at a number of jurisdictions. We looked literally at the following jurisdictions: Australia, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Cameroon, Canada, Cyprus, Fiji, Ghana, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, New Zealand, Nauru, Nigeria, OECS, Pakistan, Papua New Guinea, Rwanda, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tanzania, Uganda, Vanuatu and Zambia. And what we found, Madam Speaker, is that on average in the more developed jurisdictions: Australia, Canada, Guyana, Jamaica, United Kingdom that the ages of retirement were up to 70 to 75 years. Indeed, the Caribbean Court of Justice, the age of retirement is 73, if I am not mistaken.

Our judges, at present, retire promptly at the age of 65 and go to work in the Caribbean in the OECS. They work in Belize, they work in Bahamas, they work in Turks and Caicos, they work in Jamaica, and they work in other jurisdictions. Our judges—viewed to be the most robust of judges in the Caribbean, the most

experienced because of our caseload— our judges go instead to the other islands and we lose judicial capacity. Therefore, in continuation of the expansion of the criminal justice system in a way never seen by this country before in a plan of action that no other government has contemplated, we come today to raise the age of judicial retirement from 65 to 70.

And I can tell you, Madam Speaker, there are many judges on our platform who are prescribed by another very deep concern. There are two types of judges that may serve on our benches: judges appointed by way of permanent appointment and judges appointed by way of temporary appointment. There is an unfortunate prescription which I intend to ask the Cabinet to remove and that is where temporary judges can serve on the bench and immediately go back into practice. But permanent judges have a 10-year restriction on getting back into private practice.

The recommendation which I propose to make to the Cabinet and to the country is to put a three-year limitation only. So that we can attract young bright minds to serve in judicial capacity and not be afraid that they will be locked out of their profession. And, Madam Speaker, I have drafted that already, I intend to move that forward for active national consideration so that we improve judicial capacity. That is why, listening to the Leader of the Opposition flirt the first time with the idea of the age of retirement for the defence force, I said a little earlier was too little, too late, it is already under consideration. [*Desk thumping*]

Madam Speaker, apart from the obvious commonsense position of wanting to preserve judicial capacity with the expansion in the number of judges, we have done something else. We as a Parliament, aided only by one Opposition Member who had the courage to break ranks and say, yes— and I am talking about the Member for Chaguanas West. One Opposition Member had the courage to break

ranks with his leader and say yes to the increase in judicial pensions because you cannot ask judges to serve if their terms and conditions are less than what the market provides. So, Madam Speaker, that is one of the mainstay operations in clauses 3 and 4 of the Bill before us today, Madam Speaker, as we deal with the issue of judicial pensions.

Now, Madam Speaker, there is another very important benefit inside of this Bill, and that is in the reorganization of the definition of “Chief Legal Officer”. Chief Legal Officer, Madam Speaker, was effectively in section 2 in subsection (15), it was defined effectively as:

“...Master of the High Court, the Chief Magistrate, the Registrar and Marshal...”

And what was anomaly was that the Court Executive Administrator, the person who is effectively the Permanent Secretary of the Judiciary, that person was omitted from the list of personalities.

And why do I raise that, Madam Speaker? If we look to the Constitution (Prescribed Matters) Act and we go in fact to the Schedules attached to that, Madam Speaker, we would see—forgive me, it is not that Act, it is the Judicial and Legal Service Act, Chap. 6:01 and we go to the Schedule attached to that, and we note, in particular, the provisions of the Second Schedule. You will note the Chief Magistrate, Master of High Court, Registrar of the Court and Marshal and the Court Executive Administer they are identified as being subject to the Chief Justice. Control and measure, in the Family and Children Division and in the criminal division Acts which we passes and have been birthed and put into operation, we provided for an administrative arm of the Judiciary for the first time ever.

We provided for Registrars of the Court as opposed to Clerk of the Peace

that is up and running. And in this structure it is notable that the Judicial and Legal Services Act did not treat with the Court Executive Administrator in the same fashion that we treated with the Permanent Secretary of the Ministry of Legal Affairs as it now falls under the Attorney General's office, and in treating with that and in view of the executive functions performed by the Court Executive Administrator, we are now ranking the Court Executive Administrator who is in charge of the administrative arm under the Chief Justice in that capacity of the entire Judiciary in the structure that we have given. We are now lifting the terms and conditions of that personality so that the Judiciary does not experience a constant revolving door where you cannot retain talent.

Madam Speaker, that in effect, covers all of the main objections of this legislation. It is entirely apposite to the best interest of the people of the Republic of Trinidad and Tobago. It takes us into the zone of anchoring a Judiciary that can perform by providing courts, 125 of them, by lifting the number of judges from 36 to 64 in the High Court, by lifting the number of judges in the Court of Appeal from 12 to 15 in the Court of Appeal, by raising the number of masters. The Member for St. Augustine will know that the last government sat down and watched two masters of the High Court in operation. Today we are on the way to 35 masters, having crossed 25 already. [*Desk thumping*]

Who are masters? Masters are the people to case manage the case matters. We have reduced the backlog, we have taken 146,000 cases, we chopped out 8,500 in marijuana, we have treated with the Motor Vehicles and Road Traffic Act, we are chopping 104,000 cases on April 2nd. When we abolish preliminary enquiries, we chop out another 26,000 cases taking the magisterial caseload from 146,000 cases every year to 8,500 with 43 magistrates in 12 courts.

Madam Speaker, the creation of courts that I have described does not include

the Magistrates' Court in San Fernando which is in the course of going out for being built right now, corner of Irving Park. My friend, the Member for St. Augustine knows that. It does not include the criminal division to be constructed where we are demolishing the old Magistrates' Court in San Fernando. It does not include the Rio Claro Court, it does not include the new Arima Court, it does not include the new Princes Town Court, those are hundreds more to come into effect under the next PNM Government which will preside in the period 2020 to 2025.
[*Desk thumping*]

Because no other government had the foresight to put those dots together. [*Desk thumping*] Nobody. They arrived with a little tweak and an amendment to the Firearms Act. They arrive with a tweak and amendment to this piece here and this piece there, they operationalize nothing, full of old talk, as opposed to plant and machinery, people, processes and law.

Madam Speaker, this is good law, this is forward thinking, this is operational soundness of a type that nobody opposite has thought of. And I thank the Cabinet of the Republic of Trinidad and Tobago, the hon. Prime Minister for agreeing that this is prudent for us to raise the age of retirement for judges. Keep judicial capacity, keep the learning that Trinidad and Tobago has on our shores, increase the terms and conditions for the Court Executive Administrator so that the Judiciary is better armed to manage itself. And I beg to move. [*Desk thumping*]

Question proposed.

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker, for recognizing me as I rise to contribute to this Bill, the Miscellaneous Provisions (Age of Retirement of Judges, Interpretation and Chief Judicial Officers) Bill, 2019.

Madam Speaker, before I proceed, I would like to deal with some of the

issues the hon. Attorney General has just expounded and we would say “explashed” and if he has called out all these different laws, why it is that the people of Trinidad and Tobago are ducking and hiding and running for their safety? [*Desk thumping*] You see, Madam Speaker, for those who do not know, for the uninitiated, one listening to the hon. Attorney General would believe that we have the best judicial system and it is the role model for the world to emulate. [*Desk thumping*] One would believe that the magistrates have all the resources at their hands. One would believe that the judges are even happier.

Madam Speaker, one would believe that the masters of the court have rooms where they could go and sit and do sufficiency hearings. And the Registrars of the Court will have all the support services that they need. And most importantly, the people of this country will believe that the wheels of justice are oiled and moving swiftly so there is the rule of law. But the Attorney General is totally out of sync. When he speaks it is almost like peacock-like where the unfolding of the plumage so he can exhibit kaleidoscope of colours. [*Desk thumping*] Madam Speaker, what is just? That is just glitz and glamour and no substance. [*Desk thumping*]

The hon. Attorney General spoke about the waterfront. The waterfront having what? Sixty Civil Courts. You are moving the courts from the Hall of Justice taking them to the waterfront. But I want to remind the hon. AG, what was the purpose of that waterfront? It was under the Manning administration, it was his 2020 Vision to make that waterfront what is called the “financial hub of the Caribbean”. Madam Speaker, we had a joint select committee where we had brought Master Morris-Alleyne before us and we were looking at the adequacy of the facilities in the courts in Trinidad and Tobago. And what did Master Alleyne say? She said very rarely the Judiciary is engaged when you have to procure buildings and outsource buildings to conduct court hearings. I am asking the

Attorney General, have you engaged the Judiciary? Have you asked the Judiciary what is the design and layout you want at the Hyatt waterfront?

2.30 p.m.

Madam Speaker when you are doing a courtroom, I just want to educate the hon. Attorney General, [*Desk thumping*] is that a courtroom must never have a central column, and I am inviting everyone to go to that Waterfront, we sat there, and see how many columns running zigzag. And you are going to put civil courts there? The same thing happens in the San Fernando Supreme Court and I will give you an example, Madam Speaker. I was cross examining a witness, one of the courtrooms at the Supreme Court, there is a central column that is snug right in line with the witness box. And as I am cross examining the witness he is moving right, I am moving left. And we are going zigzag, “he playin games with me”.

Madam Speaker, imagine a witness, a layperson and I am going to quote for you what he said to me. He said “Ma’am, it have too many posts here”. [*Desk thumping*] Madam Speaker, we are talking with a layman telling you there are too many posts in the courtroom. And this is what we have happening because you are not engaging the Judiciary to say how you want, because there must be a clear line of sight.

The hon. Attorney General spoke about Princes Town Court, Madam Speaker, up to now that has not been used because there was an earthquake and the building perhaps collapsed. You cannot use it and he is boasting as I say, peacock-like, boasting about Princes Town court. Then he boasts about the court in San Fernando Magistrates’ Court, that is another court, for five years. The attorneys in San Fernando they have to pine away. The magistrate running from Madinah court to the High Court. Lunchtime, junior sec system, the judge has to pull up all his papers, exit the court. So you have a magistrate leaving Madinah to go to the

UNREVISED

Supreme Court to conduct, the Second, the Fourth, and the Fifth, and Sixth courts. That is what we have happening. And if one were to go to Freeling Street, you would see the land space that was earmarked, Madam Speaker, to do a Magistrates' Court, five years.

Hon. Member: Not under this Government.

Mrs. V. Gayadeen-Gopeesingh: I am wondering if it is the same way, Madam Speaker, if you could eyeball 30 grammes of marijuana. [*Desk thumping*] That is the same way. So we are not going to see it happening, Madam Speaker. This is what you call glitz and glamour.

Madam Speaker, a court cannot act or perform its duties, the courtrooms, they need what you call support services, you have ancillary elements. So, if you are going to set up those 60 courts at the Hyatt Waterfront, you have to have a separate planning unit; you have to have a court research and statistical unit; you have to have a court protocol and information unit; you have to have an information technology unit; plant and building and equipment unit; a court reporting unit; records management unit; court library service unit. Hon. Attorney General, through you, Madam Speaker, do you have all this? Where would all this happen? What is it? You cannot tell me that all this is existing and we will use from the High Court as the Supreme Court here, Hall of Justice, to deal with 60 additional courts. It just will not auger well. [*Desk thumping*]

The hon. Attorney General spoke of backlog of cases. That is why he wanted to increase the age of judges. Where do these backlogs come from? Where do they start? Where are they initiated? They start from the magisterial level. And if you are not doing anything to pull these matters through the magisterial level, Madam Speaker, then you are what we call, when you "thinging" top in mud?

Hon. Member: Spinning top.

Mrs. V. Gayadeen-Gopeesingh: Spinning top in mud. That is what happens, because you have a circle, you actually have a circle. When you have matters keep adjourning on a magisterial level for the want of a prosecutor, for the want of a defence counsel, you cannot find files, you cannot find the prisoner, because they keep the prisoner in the dock, and they cannot find his file so they put him back in the loading bay and send him back in Remand Yard.

What about the 100 persons? The Attorney General rush into Parliament to do cannabis Bill and say 100 persons cannot pay \$500, so we are going to take them out. They are still pining away inside there. What happen to that? [*Crosstalk*] One, you have two, they are still sitting there because you still cannot get the \$500.

Madam Speaker, let me deal with this backlog, and what some of the judges say, Madam Speaker. A particular judge said “The Magistrates’ Court is the abandoned child, and the Judiciary has to take it back into its fold.” That was reported in Sunday 6th *Newsday*, 2019. She also said that the magistrates are trying to make a difference, they are trying hard, but they do not have the resources at hand. So what do we do? What about when we go to the Magistrates’ Court, Madam Speaker, and the Attorney General talked about CourtPay. How many persons have used CourtPay to pay maintenance?

Madam Speaker, my office is next to the Madinah Magistrates’ Court, one Friday, I went into the court two weeks ago, lots of people forming zigzag; they are outside of the courtroom standing almost to the road. Some come and sitting on my staircase. I said “Oh, like today lots of traffic matters?” Nobody answered, because you know why? Because a lot of child fathers outside there waiting to pay maintenance.

The Attorney General said he is going to put kiosk in every court. Where are the kiosks, except chaos? Madam Speaker, [*Desk thumping*] where are the kiosks?

So nobody using this system. He also said, the hon. Attorney General, that we are going to have Lotto booths. Which child father going to pay maintenance when he could play Play Whe?

Dr. Moonilal: To gamble, “dais” encouraging him to gamble.

Mrs. V. Gayadeen-Gopeesingh: That is not being used. So, Madam Speaker, this is just what you call fanfare. Everything is what you call hunky-dory, but nothing is working. The wheels of justice are spinning so slowly, Madam Speaker, people are totally fed up. That is why there is no sustenance of a rule of law in this country. [*Desk thumping*]

Madam Speaker, if you want to increase the age of judges we have no problem you know, absolutely no problem to increase the ages from 65 to 70. But one has to understand what would be the mental capacity of these judges? We have to look at the mental capacity, because, Madam Speaker, as we age, as we age, Madam Speaker, we have physiological changes. So the things we can do at 40 years, we cannot do it at 70 years. So, Madam Speaker, what happens is that you get something called presbycusis. You get something called presbycusis where you cannot hear. So who would know that more than the Member for Arima? Presbycusis, Madam Speaker.

Madam Speaker: Member, I would advise you not to go there, please.

Mrs. V. Gayadeen-Gopeesingh: You cannot hear, Madam Speaker, and then you have what is called presbyopia. You cannot see. So those are some of the things you have to engage these persons who are judges who you are going to extend their age limit from 65 to 70. So what you need to do? Madam Speaker, is that perhaps you need to have a group of doctors because just as the public at 65 years, when they are going to renew your license they have to go to a medical practitioner—“Wha happen” Laventille West, “whey de” guy—[*Interruption*]

Madam Speaker: Okay, Member, Members, I am having great difficulty in following the contribution of the Member of Oropouche West, because there is a lot of the crosstalk going on. So I will caution all Members to abide by Standing Order 53. And Member for Laventille West, I saw you on your legs, but I would like to say is that if all Members, you know, abide by the Standing Orders, I think it may lessen the need for you to jump up on your legs. So I think we are going forward and everybody will abide by Standing Order 53. Please Member for Oropouche West.

Mrs. V. Gayadeen-Gopeesingh: Thank you, Madam Speaker. [*Desk thumping*] The hon. Attorney General spoke about judge alone trials, Madam Speaker, and God forbid us if a person who is a defendant decides to go for a judge alone trial, and that person does not—the judge does not have all his mental faculties intact, Madam Speaker, what happens? The person's life, and limb, and liberty, is subject to the sole discretion of the judge. So, that is something serious, Madam Speaker. So judge alone is an issue because the hon. Attorney General said that some persons have opt to have no jury. They do not want to be judged by their peers. They opt to have judge alone trials. And that will be a challenge for both the judge and also for the litigant.

Another issue, Madam Speaker, when we leap the age of the judges to 70 years, what about the upward mobility of judges? We have 65 sitting in the High Court. Judges sitting at the High Court they have a legitimate expectation that they will go up to the Court of Appeal. So, if you have those sitting in the Court of Appeal not moving, you are not creating a space, or you are not creating that opportunity for those at the High Court to move upward. And the simple question I am asking: Have you asked the judges if they want to work to 70 years? After they have all these problems to undergo in this judicial system, many of the judges who

I have spoken with are totally frustrated, Madam Speaker. You think they want to work for an additional five years, and foregoing family time when they do not have the resources to work with? We have some judges cannot even get paper to print judgments, and they are tired of dipping into their pockets to buy paper.

So, are those judges prepared to work for another five years? What about the younger ones, Madam Speaker? The younger, what you call Senior Counsels. Senior Counsels would have worked 10 to 15 years, Madam Speaker, they would have built their homes and purchased their Mustang and Prado and so.

Hon. Member: Swiss sports car.

Mrs. V. Gayadeen-Gopeesingh: And what happens, Madam Speaker, they would want to go to the bench. But if you have 65 judges sitting now in the High Court, there is no room now for Senior Counsels to move to the High Court. So you do not have the upward mobility of lawyers and the judges. [*Desk thumping*]

Then, Madam Speaker, if you were to increase the age of the judges, are you going to have the caveat? Are you going to place a caveat with the age of those judges, because after 70 years are you saying, okay, you can no longer head commissions and you could no longer head enquiries? So you could have room for younger ones. We could recall what happened to Justice Ventour. Justice Ventour had to resign from the Integrity Commission, he had to take up a new instrument to go back to the court. He had to go back to the court, to get another instrument to be appointed as a judge, complete his judgments, resign again, and come back and get a next instrument to come back and head the Integrity Commission.

You see, Madam Speaker, so you need to have younger people, younger judges who are articulate, who are bright, because we have many young bright judges who will want to do these things. [*Crosstalk*] Madam Speaker, I understand there is also a ten-year ban for judges. So after they have resigned, or retire sorry,

at 65 they are not allowed to go in practice after ten years. So you also should have addressed this and say that we would deal with that ten-year ban. So, we should have done it simultaneously. So, at least after the 65 years, Madam Speaker, they could go back and practise, because some of the pensions and the moneys that they receive is not commensurate with the rate at which things and prices are happening in this country—rising, which is called the cost of living. It is not commensurate. So these persons may want to go back to practise. So we have to address that ten-year ban.

We also have the issue, Madam Speaker, of artificial intelligence in the courtroom. We are in the fourth industrial revolution of the world where we are talking about robotics, where we talk about ICTs, we are talking about artificial intelligence. And what you have happening, Madam Speaker, in Estonia is artificial intelligence has replaced judges in some cases. In the Netherlands we have artificial intelligence used in court management. It assists judge in their judicial capacity to select relevant jurisprudence. They help highlight arguments by the parties, or they create arguments to be used in judgments, and even in sentencing, my friend Member for Mayaro is reminding me of that. Even also, Madam Speaker, in the US they are using artificial intelligence for bail and for recidivism, Madam Speaker.

So, I am not saying that we can get rid of all judges because we have complex matters that you need the human intervention. Complex fraud matters you need to have a human there. But we have to be cognizant of the fact that artificial intelligence are is replacing some judges. And in complex cases we are saying we still need the input of judges, complex fraud matters.

Madam Speaker, we also have the issue when we look at the Commonwealth and we look at the ages at which some judges retire, we are seeing—let me just get

this, Madam Speaker—and we look at Bahamas, you see judges in the Court of Appeal they retire at 68, and judges in the High Court they retire at 65, but in The Bahamas you can also increase the age for the judge to 67 in The Bahamas. In Bangladesh judicial appointments a mandatory age of 67. In Guyana it is 68. In Malaysia judicial appointments are permanent until the age of 66. Malta, until the mandatory age of 65. Mauritius until 62. And when we look at the organization of the Eastern Caribbean States, Madam Speaker, the Eastern Caribbean States comprise of Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines, and you also have three British territories Anguilla, British Virgin Islands and Montserrat. And the organization of Eastern Caribbean States, Madam Speaker, the age at which judges can sit at the court is 62 for the High Court, and 65 for the Court of Appeal. When we look at Singapore, which is really the role model of the world, Madam Speaker, you will see that their age, the appointment of a judge is permanent until he attains the age of 65, but in Singapore you can also extend the time to six months, in which the President will extend the age at which the judge sits.

Madam Speaker, but the largest democracy of the world, when we look at India, the largest democracy of the world, you are seeing that the court retirement age for judges, 62 in the High Court, and 65 in the Court of Appeal. The largest democracy of the world, Madam Speaker, where their pendency rate, pendency, the length of time matters come to the court is between 10 and 25 years. Our pendency rate here in Trinidad and Tobago is 10 to 20 years. And what is their ratio of judges? They have their ratio of 20 judges per million and we have a ratio of 26 per million. So what we are seeing, we also have more judges per million but they are not extending the age for the High Court retirement for judges and the Court of Appeal. They are not extending it, the largest democracy of the world.

So, Madam Speaker, when we look at the Judiciary, we have to be reminded that the Judiciary is really the third arm of the State and in any democratic country the Judiciary is established by the Constitution to operate independently from the Executive. I want to quote Justice of Appeal Peter Jamadhar, and he said that, “the bedrock of an effective impactful and sustainable justice system is the public’s trust and confidence in the administration of justice”. He said that “judicial independence and accountability are both fundamental aspects of the rule of law”. And also, one has to be reminded of the Commonwealth’s Latimer House Principles, Madam Speaker, where judges are accountable to the Constitution and the law which they must hold and apply with integrity.

Never in our history, Madam Speaker, has the Judiciary been plagued with any allegations or anything that hang over its head. Never in our history has—it has been unprecedented. And, Madam Speaker, what the Attorney General has brought here today is to increase the age of judges from 65 to 70. And I am saying, through you, Madam Speaker, hon. Attorney General perhaps we can increase the age of judges to 100, but unless and until we resolve what is happening in the Judiciary, you cannot build that trust and confidence back in the people of Trinidad and Tobago. We need to resolve what is happening.

And another question we have to ask, Madam Speaker, is this age of retirement for judges, is it some point in time you are going to increase the age of retirement for public servants because they themselves will want to have to be treated equal.

Madam Speaker, as I wind up, I would like to ask the hon. Attorney General that he always speaks about the architecture of the law. I want the hon. Attorney General to know that the architect needs to be changed, and we need to have a new plan and a new design [*Desk thumping*] and only then that plan will be improved

by the people of Trinidad and Tobago. [*Desk thumping*] I thank you.

Madam Speaker: Member for Laventille West.

The Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very kindly, Madam Speaker. As I rise to make a very brief intervention in this debate, and largely only in response to the Member for Oropouche West, not that Members of this House would have been surprised by her contribution, not at all. But certainly, the record of *Hansard* is a permanent, Madam Speaker, and public record, and it will be an affront to the citizens of Trinidad and Tobago to allow the frivolity which underpinned the very fabric of her contribution to go unattended. It is purely for that reason that I make this intervention, Madam Speaker.

And the Member closed off her contribution with a bit of a metaphor, she quoted the Attorney General who from time to time has made reference to the term, and I put it in inverted commas, “the architecture of the law” and to much applause from her colleagues, she said that what the law of Trinidad and Tobago needs is a new architect. But you know what she offered us today, Madam Speaker, apprenticeship. The Member for Oropouche West in the metaphor offered us apprenticeship today, and that too is to be flatly rejected.

The Member began her contribution, Madam Speaker, by asking the question, for some of us the rhetorical question, for others a not so sensible question: Why are people hiding and ducking and running from criminals across Trinidad and Tobago, in light of or against the backdrop of all the tremendous work that the Attorney General has led, and this Government has executed in Trinidad and Tobago as it relates to the administration of justice, and more particularly the criminal justice in Trinidad and Tobago?

Let me say, self-serving as it might appear being a Member of the

Government, I think, bar my obvious bias, and my being part of the Government, it is an objective fact that a tremendous amount of work has been accomplished over the last four years led by the Attorney General in respect of the criminal justice system. [*Desk thumping*] No one in this country could soberly or reasonably try to again say that, no one. So the member asked: “Why are people still running and ducking in light of all of this tremendous work that the Attorney general highlighted has been accomplished?” I want to say to the Member, criminals operate independently to a large extent of the law and the legal justice system, the criminal justice system in any country. They make no reference it. They believe they could get away, beat the law and get away and skid. I guess that is why they are called traditionally “outlaws”. They do their thing, and it is up to the Judiciary along with arms of the Executive, mainly the police and law enforcement more generally, to establish systems which we have to respond to that “outlawish” behaviour.

So, Madam Speaker, when I hear for example as is often stated by my friends on the other side, “Look how many murders take place under the PNM”, I always find that a very foolish comment. And I have been in this Parliament now for near 23 years, and I have never, even when the UNC was in Government unfortunately, talked about under the UNC. Because I just find it intellectually soft and stupid. Because it is well known or it ought to be well known that criminals pay no reference to who is in power when they are ready to prey on the next victim.

I read in today’s paper, Madam Speaker, by way of a minor example, a woman is at a fruit stall in the Maracas area, I think yesterday or day before. She has gone there to conduct her life’s business, and criminals armed with automatic weapons have sight in that food stall of a man who they had an interest in. They

opened fire in an attempt to deal with that man, and the woman fell to their violence. Two persons died, the man, and the woman. And when I read that this morning, I said to myself, I wonder if these criminals ask if PNM in Government or UNC who under? Foolishness. Having said so, the State quite apart from any political party, quite apart from any Government, because Government is only a part of the state apparatus, has a responsibility to protect its citizens from that kind of “outlawish” behaviour. And in that regard, work is being done but I would like to see a lot more in certain respects.

3.00 p.m.

But we are responding to these outlaws by establishing a criminal justice system and a judicial system to respond when they are arrested and brought for resolution before these institutions of the State. That is what we are doing, and it cannot be doubted that in respect of that responsibility of the Government and in respect of that responsibility of the State that a tremendous amount has been accomplished in the last four years. To quote the Attorney General, he has done things. This Government has done things that they have never even thought about and that is a fact. [*Desk thumping*] That is a fact.

And by way of elucidation, in terms of this concept of “under” we had a case and the Attorney General made passing reference to it and I should equally make passing reference to it, where a former Senior Counsel Nelson pleaded guilty before a court under modern legislation, plea bargaining, and the court dealt with that matter yesterday, imposed a substantial fine on behalf of the people of Trinidad and Tobago, but that crime for which he was sentenced yesterday took place under the UNC. [*Desk thumping and crosstalk*] No, it is not relevant, but I am just using the word “under”—under the UNC. A former Attorney General under the UNC and a former chief servant and former Senator under the UNC in

the same crime, but I would not dwell upon it, I would move on. So this concept of “under” I do not even feel I want to hear it in this Parliament again. It is foolish.

[Desk thumping]

I would learn in my own constituency, much to my pain and chagrin, another young man lost his life within the last 48 hours, and one of the people living in the neighbourhood where this incident took place explained to me yesterday, this young man had come from outside of the district and it was a case of mistaken identity. We would never know. The police are investigating the matter, but the word on the ground is he was taken for someone else. So the problem there is not the good work the Attorney General and the Government has done, it is the behaviour of citizens who find themselves in possession of illegal and deadly firearms, but the State has a responsibility to find “every one ah dem firearm” and take it and take those who possess them too if they could find them, and I would like to see more done in that regard. I know that the police are working, exerting maximum—well not maximum, but great efforts and I would like to see a little more energy to go because guns are physical things, Madam Speaker, yes, and they are somewhere and they could be found, and I would like to see the entire police service dedicate all of its energy in the next six months to finding those things so as to make the environment a little more safe and a little cleaner, as we did politically in 2015. By coming into Government, we made Trinidad and Tobago a cleaner place, and we intend to keep it so, later in 2020. You agree? Yeah.

Madam Speaker, the Member was so trifling, she started to speak and spoke about the suitability of the waterfront. The Attorney General has been at pains to say we have had a shortage of criminal judges, we have had a shortage of criminal courts and we have had a shortage of criminal law practising attorneys. As a consequence of those three states of affairs and other issues, the criminal justice

system was running like molasses going up a wall, slowly and ineffectively. The Attorney General said, listen, we are vacating the Parliament. We occupied those rooms since 2009 until the PNM came into office and rebuilt and refurbished this beautiful edifice and we returned to this place, that building is now available for courts. So we came up with the decision, the Government, to remove to civil courts from the Hall of Justice and to let them take place and residence at the waterfront. The Judiciary, an independent arm of the State, led by the very dignified, learned Chief Justice and their technical teams would have visited the waterfront on many occasions and it could not have been occupied by the Judiciary unless they agreed with it.

So I want to say to the Member for Oropouche West, whatever she may think of those buildings—[*Crosstalk*] It is a pronoun. [*Crosstalk*] Whatever the Member for Oropouche West may think about those buildings, the one thing the Attorney General and this Government could say is that it is occupied by the Judiciary on the “say so” acceptance and agreement of those who speak on behalf of the Judiciary.

So, Madam Speaker, they are satisfied and the Member for Oropouche herself now is nit-picking, looking for issues, as the UNC has been doing in their desperation, in their barrenness, looking for issues in this and across Trinidad and Tobago to raise alarum over, failingly so. So what we now have is the Hall of Justice to be dedicated exclusively or largely to criminal courts and the administration of criminal justice. In that regard, the Attorney General, quite properly boasts, that we now have 64 rooms at the Hall of Justice on Knox Street dedicated to criminal justice, and he told us to supplement that—as the Minister of Health tells us, creating a hospital and putting beds is one thing, but beds require personnel, nurses and doctors and diagnostic facilities. Am I correct?

Mr. Deyalsingh: Correct.

Hon. F. Hinds: I am sounding like a doctor?

Hon. Deyalsingh: Correct. [*Laughter*] **Hon. F. Hinds:** So the Attorney General is saying that those rooms are now available to administer the criminal justice system, and to support those rooms, like supporting the beds, we have increased the judges from 37 to 64—36 to 64. [*Crosstalk*] Yes. And the staff to support these judges, each judge now has a staff of five persons to support his work or her work. That is significant improvement. That is improving the processes and we are here with an instalment of improving the law, Madam Speaker, as we have improved the plant at the waterfront and on Knox Street. So the formula as the Attorney General has been saying is a question of plant, is a question of people well-trained and highly motivated, it is a question of process and it is a question of law. That is the formula we have been adopting unknown to them, because they are only guided by wickedness.

The Government and the party we represent is known in Trinidad and Tobago for nation building, institution building. [*Desk thumping*] So the measure before us today may seem simple to simpletons, but it is another instalment in the whole business of institutional strengthening and building to respond to the criminals on behalf of the law abiding people so that they would get a quicker day in court and justice will be served in accordance with biblical dictates and societal expectation.

And I would like to take this opportunity, in this regard, to congratulate the learned officers of the court, Justices of Appeal, brand new, Mr. Justice of Appeal Kokaram, Madam Justice of Appeal Wilson, Maria Wilson and, of course, well-known rootsy, multi-skilled, multi-talented but legally sound and morally outstanding, Mr. Justice of Appeal Malcolm Holdip. I would like to take, on

behalf of all of the people of Trinidad and Tobago and, certainly, the people of Laventille West, to extend my congratulations to them and my confidence on behalf of the people that justice will continue to be well served. [*Desk thumping*]

These measures here today, this measure is really simply to increase the age for retirement of our judges, and the Member for Oropouche West had the temerity, the gall, the gumption, the boldfacedness in what I considered to be an attack on senior citizens in Trinidad and Tobago, unwarranted—a moment of age discrimination. The Member blankly assumed that because you are age 70 you must be dumb, so she questioned their mental capacity, not taken into account that alcohol does worse for some people's minds than the age 70, but she would celebrate those who may partake in that. The regular and abuse of alcohol might be more damaging to someone's brain than acquiring age 70. So I reject any suggestion that people in Trinidad and Tobago or the world are necessarily deficient because they get to age 70 [*Desk thumping*] and while doing so, she disregards the fact that the Member for Naparima—

Madam Speaker: Member for Laventille West, while I would allow a certain amount of “she” because it follows naming the Member properly, I would like you to please watch that in your speech.

Hon. F. Hinds: I am obliged. I would watch my pronouns carefully now, the Member for Naparima. I am obliged. Madam Speaker, just for the public record, I am sure the Attorney General in his very lucid, wide-ranging, well-studied presentation here today would have alluded to it, but just for the record, let me ensure that it is recorded, that the Supreme Court, recently constructed—Supreme Court of the United Kingdom, the retirement age is 75 years. I have just had a look and there are several judges at the age of 72, 73 and 74, the Supreme Court. The Privy Council, similarly, and the Supreme Court of the United States is very

instructive. They enjoy tenure for life.

The Constitution of the United States says and I quote that all judicial power is vested in the Supreme Court, which is the highest court of the United States of America. They have tenure for life, Member for Oropouche West, and I will share with you, if you did not take time to look at it. One Supreme Court Judge, Ruth Ginsburg, she started out—well she joined that court in 1993. She is 86 years of age as we speak. Stephen Breyer, he started in 1994 on the bench. He is 81 years of age. [*Crosstalk*] Yes, he is approaching the age of my friend. Samuel Alito started on the bench in 2006 and now at age 69 years and, in fact, the records of the United States show that some of the judges of the bench would have served for as much as 36 years and, of course, human things as they are, life does not always last and there is always room for upward mobility. So the Member for Oropouche West, wondering what would happen when we increase the age of judges' retirement to 70, whether there would be upward mobility, she assumes that no one will resign, retire, leave and perish as human beings do.

So, Madam Speaker, I would like to commend the measures before us and I would like to say that our Caribbean Court of Justice, the CCJ, 73 years. That same Caribbean Court of Justice that my friends on the other side signed on to, not in its original jurisdiction, but in its appellate—not in its appellate jurisdiction, but in its original jurisdiction—that same court which is now housed on Charlotte Street—between Charlotte and Henry Streets in the City of Port of Spain where the UNC in Government fought in the Caribbean community, demanded, negotiated to have the headquarters seated in Port of Spain, that same court which the United National Congress supported all the way through, argued for, held up until the Government changed—[*Crosstalk*] That is what cemetery eddoes does, ignore that. [*Laughter*]

Hon. Member: Cemetery eddoes?

Hon. F. Hinds: Yes. The Member's front yard was a cemetery.

So, Madam Speaker, that same Caribbean Court of Justice which the Member for Siparia is on the public record of this country as saying she will not support, and because she could provide no solid, arguable, sustainable, intellectual argument, found herself—the Member for Siparia saying she cannot support the Caribbean Court of Justice because it did not reflect the ethnic composition of Trinidad and Tobago. And when I looked at the composition of the bench I saw all flavours. Today we have Mr. Justice Peter Jamadar, Justice of Appeal on the Caribbean Court of Justice and I would like to ask the Member for Siparia whether she has changed her position since that time, since his appointment.

Mrs. Persad-Bissessar SC: I do not trust your Government and I hold the same position. [*Desk thumping*]

Mr. Charles: We do not trust you.

Hon. F. Hinds: Well, I anticipated that level of emptiness. As an intervention from the Leader of the Opposition, I would not have undignified my contribution by allowing it but, Madam Speaker, I still would like to know from the Member for Siparia, now that she may be satisfied with the ethnic composition of a court, whether a court's decision is on the basis of racial consideration [*Desk thumping*] whether she will support the Caribbean Court of Justice now and, if she will, I would urge my team leader to abort this debate, bring the criminal justice law in front of the Parliament and let us get on with the business of the people of Trinidad and Tobago. [*Crosstalk*]

Mr. Deyalsingh: Give way for her to answer.

Hon. F. Hinds: No. I do not want another fit of unsoberness.

Mr. Deyalsingh: Let her go on the record.

Hon. F. Hinds: Madam Speaker, I am being disturbed and perturbed by the Member for Oropouche West and the Member for Siparia and the very ghostly and ghastly Member for Naparima. I am sorry.

Madam Speaker: Member for Laventille West, I would caution you so that you do not run afoul of the Standing Orders with respect to how you refer to other hon. Members. All right? And I also want to caution you with respect to Standing Order 48(1). You have got some liberty and so on, let us get back to the matter at hand, please.

Hon. F. Hinds: I am indeed grateful for your guidance as always and as ever, Madam Speaker, and for which I thank you. So, Madam Speaker, I entered this debate, as I indicated from the very top, merely to ensure that the record would adequately reveal the sense of goodwill and the sense of intellect and the sense of thought and the sense of nationalism that should emanate at all times from this honourable House and not reflect, without attention, the frivolity that was fed to us here by the Member for Oropouche West and having done so, I trust adequately, Madam Speaker, permit me to return to my seat. I thank you. [*Desk thumping*]

Mr. Prakash Ramadhar (*St. Augustine*): Madam Speaker, it is truly a delight to return to the Red House, and this is my first speech here on the return. [*Desk thumping*] But in this period of Lent, may I suggest to the Member for Laventille West that a dowsing of water may not have been sufficient before [*Desk thumping*] but that he should really attempt to get some holy water, because I do believe there is goodness deep within but well hidden from us. [*Desk thumping*] He cannot help—he cannot help but personally attack, in fact, very logical and germane issues [*Desk thumping*] and I shall not call him a DIC, a D-I-C, distractor in chief, because that is what this is.

My learned friend from Oropouche West spoke on very important matters,

UNREVISED

and the brightest star on the PNM bench, of course, the Attorney General and I warned him, because their tradition is that the brighter you are the quicker they will take you out. [*Desk thumping*] So that all the great work that you have accoladed onto yourself, the Government—on behalf of the Government, beware of those who compliment you because they will be bearing not just compliments but glittering swords.

So back to my learned friend from Laventille West, the most obvious lack of his contribution is the understanding of what the court system is about [*Desk thumping*] and if it is that we do not understand that confidence in a court is the lifeblood of a judicial system, then you would have abdicated any sense of responsibility to the members of your constituency and to the people of Trinidad and Tobago. When jibes are shot at the Member for Siparia and speaking of the Caribbean Court of Justice, I think taking in its solitary isolation, you may think that you have scored a point or two, just the opposite. One of the basic failures of a society that has inundated itself with criminality is when people lose respect and confidence, and I dare anyone in this Chamber to say that you hold total confidence in the institutions of the State of Trinidad and Tobago and, in particular, the Judiciary. [*Desk thumping*]

What an orgy of errors, defamatory by nature and certainly deserving upon the actions of those who hold high office. But before I get to that, let me start from section 137, because I would show you why many in the society, including myself, will not support the Caribbean Court of Justice [*Desk thumping*] and it has nothing do with the racial composition and it really pains me that my learned friend would have brought it to that. There are more fundamental issues in terms of the substance of the court and the foundations of the court system that geminates those who populate it. [*Desk thumping*]

Let us look at the irony of ironies. Our present Chief Justice, a very intelligent man but, against whom serious allegations have been made, and I am not here to add to it, but to try in some way put a light as to why it is that persons are very suspicious of our judicial system, and I will not go through the details of the allegations against the goodly gentleman. He is our Chief Justice, and if you shall have your way, he shall be the Chief Justice of Trinidad and Tobago for another 10 years.

Madam Speaker: Member for St. Augustine, I would just, you know, caution you with respect to where you are going with this. Remember, we are not talking about any conduct about any judge here. Okay? We are talking about expanding the age limit. Okay? Please.

Mr. P. Ramadhar: And in expanding the age of service also brings into sharp focus the mechanisms and processes for removing judges before the time of their legal retirement, and now we are moving the legal retirement to five. And if we are to take a very insulated, artificial approach to this debate, then we might all sit and just say you have the majority, go ahead and vote, but we need to understand what we are dealing with here, because I have been called, I have been spoken to, I have been told to ask the Attorney General, who asked for this?

Mr. Al-Rawi: I did. **Mr. P. Ramadhar:** Thank you for answering it and I take you at your word, but there is a belief out there that because the waters have been so muddy that natural progression from the High Court to the Court of Appeal, naturally will take you to the CCJ or to other international august bodies in relation to certain persons, that water has been so muddy that they cannot go and, therefore, require now a furtherance, another five years. [*Desk thumping*] And if it was that easy by the stroke of a pen, as I am sure you wish it was, because an election is impending and you wish for another five years, but you cannot do so by coming

here and voting for it. The people will have to vote on that, but there are officeholders—and I am saying this for many intelligent people who have asked me these questions: is this now another—what shall we say—coziness of the administration with the Judiciary?

Hon. Member: Come on.

Mr. P. Ramadhar: No, do not say “come on”. Let me tell you why, because in the public domain and with the vintage of several days—not months, not weeks and not years—we had the ignominy of a Prime Minister being required or requested by the association of lawyers in the country—the Law Association of Trinidad and Tobago that represents, shall I say—I am hesitant to say the conscience of the practice—but a very important institution of the country, requesting of the Prime Minister to exercise his mind as to whether he should trigger section 137. It is entirely within the Prime Minister’s domain but it went to a point where the Prime Minister, in his decision to not trigger, went ahead and muddied the waters—is that the term they used?

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1), please.

Madam Speaker: Member for St. Augustine, I uphold the objection. Soplease move on.

Mr. P. Ramadhar: Ignoring the irony of ironies that the act if section 137 is highly political and completely political act. [*Desk thumping*]

Madam Speaker: So I upheld the objection, so I am not allowing the discussion about the impeachment and section 137, please. Move on.

Mr. P. Ramadhar: I am grateful that I have done with that point. I think the point is well made and well understood by the persons in the society. [*Desk thumping*] But, Madam Speaker, I want to say I have no deep philosophical objection to the raising of the retirement age and, in particular, not just the

Judiciary, but as the learned Member and former Prime Minister of this country indicated on a prior occasion for members of the armed forces. [*Desk thumping and crosstalk*] Forty-five, yes. I wish I was 45 again, but let me tell you. You see, Mr. Attorney General, on a prior occasion I had cause to use in joke, of course, a term—I almost called you a praedial larcenist and I am not repeating that here, but what you do not remember or do not know, because your colleagues may not have informed you, is that the whole process of raising retirement age in this country, under the direction of the Leader of the Opposition, then Prime Minister, had already been started with the Member for Chaguanas East. [*Desk thumping*] In fact, we had consultations.

I remember being invited to one in St. Augustine—and thank you for that invitation—where the place was just flooded with handsome men and beguiling ladies who, unfortunately, had already attained the age 65 and as Minister of Legal Affairs, I was tempted to go and check and see if the birth certificates were real, because they did not look anything like what you would have known age 65 to have been. I agree with you. People are much healthier, they are much fitter. You know, there is something about age. It is really just a number, but we are dealing with a number here that is crucial. So that to suggest that we on this side do not understand the need to embrace those who are more mature than us and to ensure that their professional lives can be extended, because they are tremendous value and worth as we proceed, is really to not know the truth. We had started that process, Attorney General. [*Desk thumping*]

And as we proceed, just to tick off a few other things, the impression was certainly given today that the legislation for electronic monitoring was all that was done, but in the short term that I was at the Ministry of Justice, we had identified a floor in that building to house not just that, but the office of the DNA registrar and

so on, a host of other things. I would not pollute or dilute this discussion here with all those fundamental truths that the staff at the Ministry of Justice and the Ministry of the Attorney General certainly will know.

But, Attorney General, I want to say that attempting to move the age of retirement from 65 to 70 is a good move; good move, but you have started again from the wrong direction. As busy as you are let me just put this thing in refocus. The first thing—and I know it is a matter of a rule that could be easily changed, and if it is easily changed let us do that first.

3.30p.m.

You complain, and rightly so, because the Member for Laventille West, I know he would not want to be a judge and many others would not want him to be, but for the reason that—[*Crosstalk*] There you go, that is the PNM—that is the mantra, “jail everybody not PNM, jail everybody not PNM”, and that is why when persons in the society—[*Crosstalk*]

Madam Speaker: Member for St. Augustine.

Mr. P. Ramadhar: Thank you so much. And that is why many good efforts are now being seen through the prism of “jail everybody other than PNM”. [*Desk thumping*] And there is legitimate cause and reason for that belief because they have a long history which we have spoken about before, and I may come to some of them. But the important thing, Madam Speaker, is that—

Mrs. Gayadeen-Gopeesingh: He had to learn Spanish.

Mr. P. Ramadhar: Yeah, we are moving the age, and I am making the point, this 10-year limitation really has no grounding in anything real anymore, because under our very Constitution, and maybe it is important to put a little context; the reason I believe that the 10-year limitation had been put was from an era when judges were held in high esteem. When there was a deification of persons who held that office

as they were so superior in terms of judicial ability, legislative knowledge and a capacity in themselves and also the interlocking network that they would have had, that they would have been given an unequal advantage over others when they return to the Bar to practise.

They believed that their brothers and sisters would have given them favours or at least be seen to do so, and that was an era when we all believed that justice must not only be done but it must be manifestly seen to be done, which we apparently have forgotten in the society, and that is why that 10-year limitation, in my view, would have been important then. But in the very Constitution there was a provision to allow for temporary judges and we had wonderful persons who said, “you know what, in service of our nation I shall go forward”. We had the magnificent Pamela Elder, and I want to say [*Desk thumping*] condolences. Today I just came from her mother’s funeral, a wonderful lady, Ursula. She died and I came from that funeral, but Pamela Elder, Gilbert Peterson and a host of others went forward because they knew that they could have gone, served their country for a three-month period and returned to the Bar and continue their work.

There are many, not necessarily only young but very abled lawyers who wish to do these things, maybe for a year. Attorney General, maybe three years even, even five as you have donated yourself to the politics and I have, a tremendous loss, but tremendous gain in terms of my ability to have contributed, and I thank the Member for Siparia for that opportunity in government to do that. [*Desk thumping*] So I think that is something that we must immediately eradicate by the stroke of a pen if it need be to say remove this thing about 10 years, because that is a terrible bar. Even judges who have recently retired at age 65 who do not wish to leave these shores, their options are extraordinarily limited and they pine away sometimes becoming embittered because the little salary they had in the

past—not salary, the pensions, much improved now, certainly could not have seen them through. And we had the awfulness of a former Chief Justice and we have heard the stories, who could not have practiced, other judges, with tremendous ability and they pine away and just disappear and then you hear that they have passed on. Let us deal with that almost immediately. Attorney General, if you could do it today, please. So that is an essential issue.

Now, this “70 year” issue, my learned friend from Oropouche West, my friend could not understand that as people age there are changes, sometimes for the better and sometimes for the worse; all sorts of things. To become a judge or a magistrate there is a serious process. I understood from some source, and Attorney General, you will let me know if it is true, that candidates recently who applied for higher office in the Judiciary all failed, and, I mean, now they are already in the Judiciary but could not do the promotional exams satisfactorily to move forward and they all failed. Are we to suggest that because you are a judge and approaching the swansong of your career, that you automatically are qualified to go for another five? Why is it that if we—the Minister of Works and Transport was here earlier and I know we have a new traffic regime in, why it is then that at a certain age—I think it is 70, Member for Fyzabad—that you need a medical if you are to renew your driving permit? Is that—

Hon. Member: Sixty-five.

Mr. P. Ramadhar: Sixty-five. So you give a man the requirement that he is driving a single car, that requirement, but you give to a man or a woman—you know what, we do not really—we say judge, do we know what the real power of a judge is or a magistrate?

A judicial officer has the power and authority to change your life, Member for San Fernando East, and as Laventille West warned us, “doh” give him that

power because he will jail everyone. A judge has the power to take your property and give it to someone else via order. And thank God for the Privy Council, I will probably come to that in a while from my own personal experience. A judge has the authority by the way they conduct a criminal case, whether judge-alone or with jury that determines the verdict in that case that could lead to a death sentence being imposed by that judge. Let us understand this, one human being put on the robes, legal training, passed the exams, went on the bench, you are now a judge; we call you “My Lord” or “My Lady”, and you have the power to say onto a person found guilty before you that, “The sentence of this court is now that you be taken from here to a place of confinement where you shall await death by hanging”. Chilling words. That is a power of a judge. Not only that, judges have the power to determine the outcome of an election. The very democracy is dependent on the court sometimes, [*Desk thumping*] and not wanting to invade your ruling; I am not, but I am saying that the society is looking to see now in an election year and an election past, how courts have responded, who are the personalities involved. You always find out who is the judge, who is your Coram.

Dr. Gopeesingh: And ghost elector.

Mr. P. Ramadhar: “Ah” coming to that. Constitutional reform is a must. So these are important things.

When my friend called me and said, “Who asked for this”? “Why they want another five years?” I say, “Doh make it personal, this is for everybody”. He say, “Doh be so naive”. How come the question was posed to me and I shall just pass it on for those who have the ability to answer it, a Court Executive Administrator, is that a judicial position? [*Crosstalk*] Is that a judicial position? [*Interruption*] No, that is the point.

Mr. Al-Rawi: There is—

Mr. P. Ramadhar: Thank you, Attorney General.

Mr. Al-Rawi: Thank you. Hon.Member, in 2003, they cleaved the two streams, they created a judicial stream and a public service stream and the Court Executive Administrator properly falls under the judicial stream under the JLSC functions, and it is so labelled in the Second Schedule to the JLSC Act.

Mr. P. Ramadhar: And that brings me to the point because the very germane foundation upon which the Attorney General started off, is about basically getting more judges to do cases.

This court administrator does not do cases. It is an administrative function. What is the specific criteria and qualification that we now want to move that person out of the regular public servant who shall await the day either with glee or with sadness of retirement and put that person in the same category of a High Court judge or a Court of Appeal judge?

Mr. Al-Rawi: Hon. Member—

Mr. P. Ramadhar: Thank you.

Mr. Al-Rawi: We are specifically not moving that person to the category of a member, we are moving that person to the category of a PS administratively. So it is far from the judicial salaries or positions, this is just ranking the PS of the Judiciary with the PS of the Public Service and nothing more.

Mr. P. Ramadhar: And the PS, unless I am to be corrected, retires at what age?

Mr. Al-Rawi: The same age 65.

Mr. P. Ramadhar: There you go. So do not say for a moment, Attorney General, that you are moving them to a PS level and then tell me you are giving them five years more than a PS. [*Crosstalk*] And thank you very much, you will have your option to wind up.

Mr. Al-Rawi: I will not go astray.

Mr. P. Ramadhar: No. Well, please, please, do not let me—

Mr. Al-Rawi: We did not make the age of retirement to 70 for the CEA, that stays at 65; that is not happening.

Mr. P. Ramadhar: Thank you, I am most grateful for that.

So that we now are in a position where we have persons who may be fit as a fiddle, sharper and very nimble-minded and everything at the age 65, but there may be others in that group who may require more attention. And I would want to suggest, first of all, Attorney General, and I am just asking this rhetorically, this is voluntary, is it not? It must be that if I wish to retire at 65, I can do so with full benefits. I would like you to put that on the record, or do I have to wait to age 70 so that I could retire with full benefits? I am not quite sure and I want clarity on that. What is wrong then for those persons attaining that age to go through a certain level of—I do not want to use the word “examination” but testing, to ensure that all cylinders are firing in order and in time. That is all, a simple matter; proper assessment, what is wrong with that? In fact, the irony of it, that I understand the Judiciary has a school of judicial education, not for us but for the judges themselves. Do judges in the Court of Appeal participate in that? Do judges at the lower rank participate in it? If the answer is, yes, well then, should we not at the higher end—because a lot of law, when you and I went to law school has changed and sometimes you practice in a certain area, and we have a bit of specialization in that, but the entire platform otherwise has moved in a different direction and sometimes important that we, you know, reassess where we are. So I think that is a very important factor.

Now, the gorilla in the room, how do we choose judges to begin with? I had not thought much about it in the years past, I took it as granted that the law had been on our books for so long and it was good, but we must always be alert to our

environment. Those who are not alert to the environment from cavemen to now, will be eaten by the sabre-toothed tiger, and the sabre-toothed tiger that we have today is the lack of confidence in our Judiciary. What is the experience that this country has had when a Chief Magistrate is appointed as a High Court judge—

Madam Speaker: Member, again, I am not going to allow you to discuss this, both on the basis of Standing Order 48(1), and I believe with respect to what you are talking about, those matters are sub judice. I am not going to allow that.

Mr. P. Ramadhar: But let us then go to what the law says. The law in this country says that the Judicial and Legal Service Commission shall be comprised of the first person as chairman, a Chief Justice, without name. This is what our law says and we are dealing with law here—

Madam Speaker: Member, as I said, I am not allowing on Standing Order 48(1), a discussion about the appointment of judges. What we are discussing here has nothing to do with the appointment, you are already a judge here—what is before us. I am not allowing a discussion about the appointment of judges on Standing Order 48(1).

Mr. P. Ramadhar: But forgive me, but the Attorney General raised the point of hiring new judges, [*Desk thumping*] and rightly boasted from 30-odd to 60-something [*Desk thumping*] and therefore, this is relevant to this debate opened by the Attorney General, with all due respect. [*Desk thumping*]

So not wanting to traverse, trespass or anything like that, I am making the point that—[*Interruption*] Yes, I am making the very simple point, and for those who do not wish to get good points well then, that is a matter for you, but it is my—[*Interruption*] For you. It is now my duty as a conscientious Member of Parliament to express my views on matters I consider relevant and if you find and you have ruled that certain things, 48(1) and whatever, but I will stay within—

Madam Speaker: Which I have done.

Mr. P. Ramadhar: Sorry?

Madam Speaker: Which I have ruled.

Mr. P. Ramadhar: Yeah.

Madam Speaker: I have ruled on Standing Order 48(1), so please proceed on another point.

Mr. P. Ramadhar: I am making the point that in hiring new judges and when one looks at the history of the age of the hiring of judges, and this is the point, Attorney General. You have judges, very capable, competent persons from many parts of this world, I imagine, who would come and possibly be made judges in Trinidad and Tobago, bringing their family here and taking up residence here in their 30s.

Understand this, so let us do some maths. You have a young judge, 35, he has 35 years ahead of him or herself; that is a judge with the necessary security of tenure and therefore, we have to be very alert because the age sometimes is a necessary filter for those who have not come up to scratch, and that is why it is necessary to look at this thing in reality and in totality that if you do not have a system that will scrub out those who do not come up to what is required—and what is the system we have, almost an impossibility. We have had the history of Justice Crane where impeachment proceedings had gone forward; of Chief Justice Sharma and lately—I am very aware of not treading there, but the point is simply this, that sometimes, Attorney General, you know this, people interview brilliantly, they pass the exams and you put them in a position and they turn beast, totally not fit for purpose, and how do you deal with that? Therefore, the whole selection process is critical. [*Desk thumping*]

The entire process for discipline must be revisited. [*Desk thumping*] Public law has so dramatically changed with judicial review that it is sometimes in the

eyes of the average Trinidadian, impossible to fix wrong things, especially in high office.

Dr. Gopeesingh: Leave it at 65.

Mr. P. Ramadhar: I am not suggesting that, I am saying that we have to revisit holistically, not just this important bit of legislation, moving a five-year from 65 to 70, but if we are going to tinker with—and this is dealing with the tenure of judges—we must do so with a vision that at the end of it, we, the people of Trinidad and Tobago must breathe a sigh of relief and say, “Ah, finally something is being done to fix the wrongs of the past and prepare for a better future”.

So if we do not deal with the section 136 and our 137, and make it far more, what shall I say, reflective of the needs of the day—you know, I had cause many times in the court to be told about, “What is the relevance”? And I realized, with all humility, when a person does not see the relevance there are two reasons; one, either you are irrelevant or, two, they just do not have the capacity to see relevance. [*Desk thumping*] And we sometimes confuse memory with intelligence; relevance is the outcome of intelligence [*Desk thumping*] and that is why we have multidirectional education today, not just singular. So that when you have a person who is versed in medicine and in economics and in nuclear physics, sometimes you will find a combustion point where these things come together and you find something that they could “steups” all they want but creativity comes from that.

So when I hear of section 48(1), I first of all check myself, but rest assured that if I check myself and I find, I will try to convince—

Mrs. Robinson-Regis: Member Speaker, Standing Order 48(1), please.

Mr. P. Ramadhar: There we go again. There we go—

Mrs. Robinson-Regis: That is relevant? That is relevant? [*Crosstalk*]

Madam Speaker: I think it is the right of any Member to rise on any Standing

Order, but I would want to caution the Member for St. Augustine because I think it is the Speaker who rules on relevance, and therefore, before you stand to continue, any Member is entitled to raise any Standing Order, it is the Chair that rules. And therefore, while I may try to appreciate what you are saying, it may have a reflection on the Chair. It may not be intended but what I am saying, it may have. So on the basis of the Standing Order that was raised, I therefore uphold the Standing Order, so continue on some other point.

Mr. P. Ramadhar: And perish the thought for a moment if there was any reflection on the Speaker, I am speaking about those who use the 48(1) to interrupt. And in the courts, I will tell you, there were many times when we were about to break the witness, you heard all sorts of objections on relevance, and so; I passed that stage, you know. So let me just make the point here, Madam Speaker, that this issue has to be looked at holistically. I have already made the suggestion to the learned Attorney General to remove the 10-year restraint on the ability to practice in the courts, but there is much, much more. I think it is wrong for a Chief Justice to help pick his team. It is not that—*[Interruption]*

Madam Speaker: Members, may I just take this opportunity to remind us all to ensure that our devices are on silent. Member for St. Augustine, again, I stand on Standing Order 48(1) and also on Standing Order 48(8), and I will ask you to move on to another aspect. If I have to rise on that again, then I will have to invoke another Standing Order.

Mr. P. Ramadhar: I am not too sure which that is but I feel almost—I would not say threatened; I am never threatened. But let me just say this, that we need to look at really a reform in the process that we get these judges to the point of their departure, either by retirement or by removal from office for good cause.

So, Madam Speaker, you know, the Member for Laventille—

Madam Speaker: Member for St. Augustine, your original 30 minutes are now spent. You have 15 more minutes to complete your contribution if you so wish.

Mr. P. Ramadhar: I am most grateful.

Madam Speaker: Please. [*Desk thumping*]

Mr. P. Ramadhar: I was stunned and rightly so by a statement from my good friend—I am very fond of him, you know—from Laventille West, and when we sat on the Joint Select Committee on National Security we had a tremendous relationship and I know that continues out—[*Interruption*] No. No. I shall not speak to you about this, Oropouche East, you have your own experiences. But when I heard this august Member for Laventille West make the pronouncement on the *Hansard* which he says is a matter of record for posterity, you know what he said? He said criminality does not have anything to do—let me better closely reflect what he said, that criminals do not care who are in power, whether it is PNM or UNC. Where is the Member for Port of Spain North/St. Ann's West? [*Crosstalk*] He has left the country.

So that when we hear the most corrosive statements, corrosive to the very fibre of our democracy that criminality is fuelled by the politics without any cogent evidence to support it, you ask yourself why are these statements being made. Is it not really to undermine the very democracy when associations are made with persons who would have met, who would have spoken with and to suggest directly, if not very insidiously that there is collusion to facilitate murder and mayhem in the society without the highest level of evidence? And then suggest—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1) again. What is that? [*Crosstalk*]

Madam Speaker: Okay, so a number of things, the Member who sucked his or her teeth, that is considered unparliamentary here. Member for St. Augustine, I

uphold the objection, please move on to another point.

Mr. P. Ramadhar: My friend from Laventille West said certain things in this parliamentary Chamber, am I to—what is the “presby—what?”—when “yuh doh” hear?

Mrs. Gayadeen-Gopeesingh: Presbycusis.

Mr. P. Ramadhar: I am not a victim of presbycusis, I heard you, [*Desk thumping*] and you suggested—

Madam Speaker: Member for St. Augustine, I upheld an objection and asked you to move on—[*Interruption*] I have ruled, kindly move on.

Mr. P. Ramadhar: My friend also said that criminals do not care who are in power, but what was the campaign of 2015? Did you not promise a PNM campaign to deal with crime in the country? And therefore, if the politics has no effect either on crime or crime on the politics, then what was your whole campaign about?

You see, they do not understand the power of words, the power of words eludes some because it may be convenient when it puts a certain complexion on things and very inconvenient when it does so another way, and therefore to be avoided. And that is why it is very important what we say here, that we really understand it is really for posterity and must be said with a sense of authenticity and belief in what you say. So I congratulate any effort to deal with crime-fighting, but my friend from Oropouche West made very important points on that. You have an arsenal available to you, extraordinary parts, under the law to deal with criminality, and I take no—what shall I say, no comfort; I take no joy, in fact just the opposite, to say with all of that, Attorney General, against all the work that you have put in, something has gone terribly wrong with the crime situation in this country. And if we figure that we could tinker with things and put it on the

book without putting it on the ground, if you think that you could create manifestations of hope in your mind but without putting it into the hearts of the citizens then you are bound to fail. [*Desk thumping*]

Why it is in the face after the People's Partnership Government gave to the protective services, and in particular the police, 600 vehicles when there were very few working ones before, and crime went down? What do you say—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1), please.

Madam Speaker: Member for St. Augustine, I will give you a little leeway with this, but I would ask you to tie it back to what we have before us in the Bill. I will give you a little leeway.

Mr. P. Ramadhar: Madam Speaker, could I ask Milady's guidance then, when colleagues say things in the Parliament, are we at all debating or are we just dealing with the sterility of the legislation before us and [*Desk thumping*] therefore not answer the issues that have been raised? Because, you see, I do not know whether the population pays much heed to what my friend from Laventille West says, I do not know, [*Crosstalk*] but the Attorney General, I know, people listen to him, and they dealt with it, they opened with this, and therefore, if I cannot close with it I will take my seat. And let it be said that my friends can do certain things and we cannot respond to it, and that is what I will be feeling in my heart, unfortunate but that is how I will feel, hurt that I am not treated as equal to my friends on the other side, [*Desk thumping*] because I take the view life is a passing thing, whether you are 73, Member for Naparima, or you are 33, Member for San Fernando East. The positions you hold are extraordinarily temporary.

Trinidad and Tobago has a long history, we took our independence 50-odd years ago, but my hope and ambition is that what we do—

Madam Speaker: Member for St. Augustine, I am having a difficulty in appreciating the line. An objection was raised, I ruled on it and I asked you to please continue but be cautious. I am now hearing a totally different line that in my view, and I think I have that authority, it is completely irrelevant. So I stand here on Standing Order 48(1). I will caution you to proceed relevant to what is before us in this debate.

4.00p.m.

I am most grateful, but as my friend from Caroni East knows full well, if one has to bowl a ball, there is a run-up, and that if one does not put things in context, one does not understand it. So having regard to the very little time I have I shall not develop that point today, but rest assured it is a necessary one about Parliament and how we interact with each other.

The Attorney General said that in very due course 25,000 cases shall be removed from the court system. But somebody sent me a footage from TV6 where the Attorney General made that statement, and then the Director of Public Prosecutions said, “Hold on, you cyar do that”. “You have to resource me.” I know efforts are being made to resource the DPP’s department, because it cannot be you have a car with four wheels and you pump up one tyre and the other three are flat, because what you will have is a good running tyre, but the vehicle will not move well. And the development of the points made by Oropouche West was exactly that—that you cannot lift one side, you have to lift all sides.

I know the task is huge. I know the task is difficult, but unless you do the basics, for instance, giving paper to the court, giving transcriptionists, all of those things. But the most significant thing that we are here today to debate is whether we should give more time to judges.

I think I speak for my colleagues that we support that, but there are

necessary implications to that, necessary fixes that can be made to ensure that we do not just do something out of context. If we have to give five more years, then do simple other things. So that you do not have to have persons from all over the world who may not be able to, in their own homeland, have the reputation or so, to get a job there to come to be a judge here. When you have persons like Jeron Joseph, Evans Welch, masters in the court. When I say “masters”, advocates who may very well want to serve as judges but are imperilled knowing that if they sit as a judge, not as a temporary judge, for a year or so or more, that if they do not find favour in that, they cannot return for another 10 years. So let us fix that today please if we could.

So, Madam Speaker, I am really troubled that—if I have troubled you, but I will take my seat now and rest assured that the respect I have for the Parliament of Trinidad and Tobago is one grounded in a faith and in a hope that the population will look upon all of us and say that we were all treated fairly and equally. I thank you very much.

The Minister of Tourism (Hon. Randall Mitchell): Thank you very much, Madam Speaker. Let me start off by saying that the Member for St. Augustine in his contribution fell below his usual standard today. [*Desk thumping*] What was most stark about the Member’s contribution today was his inability to understand his very own irrelevance.

Hon. Member: “Ohhh.”

Hon. R. Mitchell: Madam Speaker, what he does not understand is our use of 48(1), the only Standing Order we could use to prevent him as you, Madam Speaker, prevented him from going down the road that he wanted to go down, which is to talk about confidence in our court system and confidence in the Judiciary. We understand on this side that they on that side have a reputation for

breaking down institutions in this country, [*Desk thumping*] and that was the Standing Order that we had to use—

Dr. Gopeesingh: Madam Speaker, I stand on 48(4). What institutions are we breaking down here? **Hon. Member:** The concert to be held on the stage in Maracas.

Madam Speaker: So, Member for Caroni East, may I now? Member for San Fernando East, I will ask you to apologize, retract that and please continue.

Hon. R. Mitchell: Madam Speaker, I withdraw, and I apologize to them on the other side. The Member for St. Augustine asked who asked for this piece of legislation, and the AG said that he did, and then the Member wanted to go down a road to insinuate that on this side we are wishing for a particular judge or judicial officer to stay for a longer period. But allow me please to quote from a document of the Law Association of Trinidad and Tobago, Report of the Committee on Judicial Appointments, dated June'18. At page 44, under the paragraph treating with recommendations, paragraph 5, No. 21, let me just quote:

“The Committee considered the question of the retirement age of judges which is currently 65 years and formed the view that there is a persuasive case for increasing the mandatory retirement age to 70 years.” [*Desk thumping*]

And the Member quoted that the Law Association of Trinidad and Tobago in his words, was the conscience of the profession. So, Madam Speaker, just to put on the record that this is also a recommendation of the Law Association of Trinidad and Tobago.

Madam Speaker, the Member for Oropouche West also spoke about this backlog of cases starting in the Magistrates' Court. I heard it on the radio coming up to Parliament and I wondered whether the Member for Oropouche West was

absent when we decriminalized cannabis, when we abolished preliminary enquiries and when we decriminalized road traffic offences with the effect of decreasing the backlog in the Magistrates' Courts, and increasing the efficiency in the judicial system. [*Desk thumping*] I have to congratulate the hon. Attorney General, the Prime Minister and the Cabinet of Trinidad and Tobago for putting—

Mr. Charles: I rise on Standing Order 55(b), repetition.

Madam Speaker: Please proceed, Member.

Hon. R. Mitchell: Thank you, Madam Speaker. I am responding to the Member for Oropouche West. So I put on record my congratulations to the Prime Minister, the Attorney General and the Cabinet of Trinidad and Tobago for putting forward the most comprehensive package of reforms to the judicial system in Trinidad and Tobago.

The framers of our Constitution put in place constitutional arrangements to provide for the confidence, trust and independence of the Judiciary. So we go back to how judges are appointed. Judges are appointed under section 104, judges are appointed by the President on the advice of the Judicial and Legal Service Commission. With respect to tenure, section 136 tells us that judges hold office until the mandatory age of 65. Apart from the mandatory age of 65, a judge may only be removed for infirmity, whether mental or physical or for misbehaviour, and section 137 prescribes the way in which we remove judges for those reasons.

Madam Speaker, from the days of law school we all knew that once you are a judge, you are a judge for life or until at least your retirement age. Judges enjoy the greatest security of tenure, and it is not by mistake, it is with the rule of law in mind. Because to maintain the rule of law, fundamental to that is an independent Judiciary. A Judiciary shielded and free from external pressures. A Judiciary free from conflicts of interest, because they routinely hold very powerful individuals

and governments to account.

The Judiciary recently had to pronounce on an election petition, and in all the texts you see that a Judiciary must not be dependent or beholden upon the Executive. Madam Speaker, in the last four years we know that the Judiciary must also be free from pressures from Members of the Opposition or former Members of the Opposition. [*Crosstalk*]

Mrs. Persad-Bissessar SC: What about pressure from the Government?

Hon. Member: “Come on, we not tolerating dat.”

Mr. Hinds: Politicians.

Mr. Lee: Standing Order 48(6).

Madam Speaker: Overruled.

Hon. R. Mitchell: Thank you, Madam Speaker. There is a person called Devant Maharaj who is on the record—

Madam Speaker: Just leave there and continue please.

Hon. R. Mitchell: Thank you very much.

Hon. Member: Move on, move on. You are sounding like a—

Madam Speaker: Member, I have overruled the objection there is no need to justify it. Please move on with your contribution.

Hon. R. Mitchell: Thank you very much. Section 37, only through incapacity and misbehaviour can a judge be removed, and that is the way the framers of the Constitution designed it. So, Madam Speaker, with respect to the age requirement, the framers of the Constitution must have had certain considerations why they would have put it at age 65. Obviously the most obvious one was declining capacity. Declining capacity—I suppose at that time the state of health care, the state of science, persons approaching the age of 65, it would have—

Mrs. Gayadeen-Gopeesingh: You are supporting me now.

Hon. R. Mitchell: At the age of 65, persons would be approaching the age of declining capacity, and therefore that mandatory requirement would be seen as justified, but not in this day and age. Not in this day and age with the advancements to health care, with the advancements to science, technology. Persons who are at age 70 are just in their prime. On our Benches here we have the prime example in our Prime Minister, of performance, [*Desk thumping*] and leadership. And I would even go as far as to say—

Mrs. Persad-Bissessar SC: He still not getting back—

Hon. R. Mitchell: I would even go as far as to say that the Member for Naparima appears a bit sharp, although he has declined in some capacity since exiting the bowels of the PNM. [*Desk thumping and laughter*] But still, Madam Speaker, he presents some sort of sharpness.

Mr. Hinds: You mean he is a bowel movement?

Hon. Member: He was excreted.

Dr. Moonilal: Madam Speaker—

Madam Speaker: Continue please, Member for San Fernando East.

Hon. R. Mitchell: So, Madam Speaker, that argument goes out the door. Quite frankly in practice, a small country as ours, we cannot afford to lose the resources, the intellect that judges present, especially when they approach their prime between the ages of 65 and 70. In any event, to debunk the arguments from the Member for Oropouche West, if they become afflicted with declining capacity, mental or physical, section 137 provides the mechanisms for removal in that case. So the argument is really—well, not an argument.

There is also the argument that in placing the mandatory age at 65 our constitutional framers wanted to give opportunities to younger appointees, because—in the understanding that younger appointees to the Bench, they would

bring a more modern level of thinking, a more contemporary level of thinking, and that is a fair argument. But the retention of judges between the ages of 65 to 70, the movement of the mandatory age of retirement will not interfere with that at all. In fact, what that would do is to provide the opportunity for greater succession planning on the Bench and mentorship. I am not calling names, but recently there was a judge who fell below the standard of judges with certain utterances on social media. But—

Madam Speaker: I would caution you Member, with provisions of Standing Order 48(8).

Hon. R. Mitchell: Madam Speaker, it was just to put forward the point of mentorship, because those social media utterances no longer occur. I appreciate on behalf of the constituents of San Fernando East, to place my support to this piece of legislation. [*Desk thumping*] I would encourage the Members of the Opposition not to judge judges by their own declining capacity. Madam Speaker, with those few words I thank you.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. I would like to thank my learned colleagues, the Member for Laventille West and the Member for San Fernando East for so very capably dealing with [*Interruption, laughter and desk thumping*] very significant issues by way of response. Indeed, the contributions of my learned colleagues were rooted in the law, that if my learned colleagues had bothered to read the law, they would have been gathered in the right direction.

The Member for San Fernando East made it a very easy task in particular, as did Laventille West, to make a very short reply in this debate and I propose to do that.

I thank the hon. Member for San Fernando East and for Laventille West for

pointing out that with respect to the number one issue coming from Oropouche West and also St. Augustine, that is, the issue of age of retirement, and the position of what can only be a very unfortunate journey by my learned friend from Oropouche West, the position of the questioning of the state of mind of people as they get older in this jurisdiction, which I do not associate myself with. That can be dealt with on soundness of mind, and on soundness of body are dealt with in the Constitution of the Republic of Trinidad and Tobago. I quote from section 137:

“A Judge may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.”

It is not as complicated a process as that involving the highest office holder in the Judiciary, but it is nonetheless clearly contemplated in law.

I say that that was the main point for Oropouche West because regrettably, gerontophobia, the fear of age-related self-degeneration, or gerascophobia, hatred or fear of elderly due to memento mori, came sharply to mind. I want to caution my learned friend from Oropouche West, who I have great and fond regard for, that the UNC's platform of not supporting judges at an older age really ought to be resisted.

We on this side believe that the mechanisms of court are clearly managed by the Constitution. We have no fear that the Judiciary is going to fall into any difficulty as a result of age. To put onto the record in answer to the Member for St. Augustine who asked where did this request for the increase in the age come from, it came from me as the Attorney General in my recommendations and in my research as to how to improve the capacity for criminal justice reform. Particularly in my work at the Caribbean Financial Action Task Force, other Attorneys General

in the Caribbean, in particular, Rhondalee Braithwaite-Knowles, who is the AG for Turks and Caicos, also AG Sam Bulgin, who is the AG for Cayman Islands, those two Attorneys General boast on a constant basis how well the Trinidad and Tobago judges are doing there. Mr. Justice of Appeal Humphrey Stollmeyer, Mr. Justice of Appeal Stanley John, several of our judges, appellate judges in particular, do very well up the Caribbean. And I thought it prudent for us to raise the age of retirement, so that we can hold on to that.

A few quick points: The prospect of accepting the submission from Oropouche West. Oropouche West's submission was that senior counsel who may be interested in occupying the Bench will not have capacity because 64 judges are in occupation. Let me just break it down quite simply. That is a submission based upon judges being immortal and never retiring, because you obviously have normal course of attrition of retirement, at age 70 in this instance, and certainly voluntary retirement before that.

The third submission coming from Oropouche West I wish to disassociate myself and the PNM from, that is, the Government from, that artificial intelligence would replace judges in Trinidad and Tobago. We do not support the UNC platform that judges will be replaced by artificial intelligence and by robots.

Mr. Hinds: What!

Hon. F. Al-Rawi: It is a wild flight of fantasy and I certainly cannot accept that submission. [*Desk thumping*]

With respect to the shift system in San Fernando, as raised by Oropouche West—let me put on record, the records of the Cabinet, the Cabinet notes and minutes demonstrate that it was under Attorney General Anand Ramlogan that the buildings committee of the Judiciary was dismantled. Not a single renovation happened to any of the court buildings. And I find it peculiar, if not bold faced of

Oropouche West, to chastise this Government for building 125 new courtrooms, complaining about the facilities in San Fernando and elsewhere, when in fact it is a UNC Government that did the Chaguanas Magistrates' Court, spent tons of money on it. That Chaguanas Magistrates' Court when opened had no extra capacity and was deemed by the Judiciary to be insufficient. But what was worse was Attorney General Anand Ramlogan, buying a building in San Fernando deemed by the Ministry of Works and Transport to be entirely inappropriate to house a courtroom. That building was then condemned by the Ministry of Works and Transport. Millions of dollars paid for that structure under a UNC Attorney General, and today Oropouche West arrives to lecture the PNM for occupying Tower D, complaining that we should give it to the International Financial Centre. Why on earth would we want to give it to the International Financial Centre when the number one issue is treating with the criminal justice system?

You see, Madam Speaker, the hon. Member in an attempt, very charming attempt on her part to be relevant to this debate, because she is charming, I mean that respectfully—

Mr. Imbert: Which part?

Hon. F. Al-Rawi: The hon. Member made joke of my constant reference to architecture. You know what architecture is? Architecture is a studied, careful planning arrangement, which this Government engages in. The opposite of architecture is squatting. The Member for Oropouche West and the UNC philosophy for criminal justice reform can be compared to squatting on state land. Build anywhere, do anything, take anything, no plan and no structure. So we make no apology for having an organized systemized approach to the criminal justice—
[*Interruption*] Relevant point.

The hon. Member made two other points that I would wish to address

quickly, that is Oropouche West. Oropouche West complained, and the Member for St. Augustine as well, about the DPP's comments made at a particular event hosted by the Judiciary. I was present at that event. I sat next to the Judiciary team and to the DPP. The DPP never said that there were no resources. In the abolition of preliminary enquiries it is a matter of record that we opened—this Government opened the DPP's office in Tobago at Lowlands Mall. This Government is building out the DPP's office in San Fernando at Gulf City. This Government is building out the Park Street accommodation for this DPP's office in Port of Spain, which will be opened in a couple of weeks. I just said Tobago, that is Lowlands Mall occupation. This Government ring-fenced the legal fees and administrative fees for the DPP in the budget. This Government ensured the hiring of more capacity.

But the hon. Member for Oropouche West in touching upon the availability of prosecutors versus defenders, failed to pay attention that this Government will deliver in a matter of weeks a public defenders system. The building has been rented at Stanmore Avenue. Madam Speaker, 30 lawyers have been identified to be retained into that system. We are broadening the Legal Aid and Advisory Authority, and we will birth therefore, competent counsel. When someone's defence counsel is not ready on two occasions or three occasions, under the rules of court the State will step in and you will get competent counsel and your case begins.

You see, if you take the recommendations of St. Augustine—St. Augustine made a very bold thing to say it was the Member for Siparia who started reviewing the age for retirement. “Coulda, shoulda, woulda”, five years, three months, absolutely nothing. In fact, the Member for Point Fortin reminded me, it was Mr. Justice of Appeal Ulric Cross, together with the Member for Point Fortin, under

Minister of National Security Martin Joseph, that began the full and complete review for the amendment to the age of retirement in the Trinidad and Tobago Defence Force and also in other areas. And importantly, I had a chance while sitting here, because we have gone e-Cabinet—our Cabinet is now on an iPad—I had cause to call for the Cabinet notes, et cetera. The only Cabinet note that I found in relation to judicial improvements of the type that we are looking at is the following: It is, in fact, a Cabinet note produced under Attorney General Ramlogan. It is Cabinet Minute 1851 of 2014, and that is solely and simply to ask the SRC to review the terms and conditions of the Executive Court Administrator. That is it. So I do not know what St. Augustine is proposing here today, but there are no records in actuality.

Last point. The hon. Member for St. Augustine said today we should cause the amendments to remove the 10-year restriction on judges coming off the Bench from going back into appearances before the court. That is not a matter of law of primary legislation. There is no primary law to be amended. The recommendation is done by way of rules of the court, the Rules Committee. The Chief Justice just needs to be written to, to be asked to pass that provision. As Attorney General I intend to take a note to the Cabinet, having done the research on this. I invited the submissions of the Law Association. As San Fernando East correctly put forward, the law Association has confirmed that the recommendation of three years is the appropriate recommendation and we will get it done.

I did say last point, but permit me to do this, because I did speak with the Leader of the Opposition who raised a very important point, and I would like to give way for the Leader of the Opposition to put that point on the record.

Mrs. Persad-Bissessar SC: Thank you, AG. My question is whether you could have done—a person who wishes to voluntarily leave before age 70, the question I

asked you was: Is this now mandatory apart from the provisions in 136 for dealing with judges and so on with infirmities? If I decide to leave, can I do so before age 70?

Hon. F. Al-Rawi: I thank the hon. Leader of the Opposition, the Member for Siparia. It is a very important point that the hon. Member has raised, and I am very happy that it has been put on to the record. Now I have the opportunity to lay the answer on to the record.

In coming up with this proposal we looked at a number of jurisdictions, Canada in particular, et cetera, where in fact there is a tiered system for going. So you can be at age 65 and then you can have the option to voluntarily retire at that age, or if you wanted to stay on you can go to a later point, say age 70. Some jurisdictions actually have on a reduced workload basis.

Unfortunately for us, the complication of the terms and conditions in that gap between 65 to 70 with a tiered system approach became very difficult. I remind us that this country did not take very favourably to the increase in judicial and parliamentary pensions. We all know it had to be done. We all agree that it has been far too long that we needed to treat with those things. The complication arose, and therefore we went for the age 70. It is technically the mandatory age for retirement, as the Member for Siparia has put it, but you have the ability to voluntarily go at any point in time.

What we have done, thanks to the Minister of Finance, having improved the terms and conditions on retirement, pensions and other aspects, you are now in brackets depending upon your length of service. So from day one to a particular year marker there is one bracket of pension, and so you go in brackets. So the closer you get to age 70, let us say in the bracket 65 to 70, you are probably in the same pensionable benefit zone at 65 as you would be at 70. So we have managed

to treat with it that way, thanks to amendments brought by the Minister of Finance. But I thank the Leader of the Opposition for making this interjection. I think it is a very important point brought by the Leader of the Opposition, and I hope I have done some justice to the answer.

Madam President—Madam Speaker, forgive me, I was in the Parliament yesterday in the other place—this is good law. It is long overdue. It is part and parcel of the amendments to the criminal justice system that we have brought forward in a very careful arrangement, and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Madam Speaker: Members, it is now 4.30. We shall take the suspension now. We will resume at 5.00p.m. into the committee of the whole.

4.30p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

House in committee.

Madam Chairman: AG, could we take all en bloc?

Mr. Al-Rawi: Yes, please.

Clauses 1 to 4.

Question proposed: That clauses 1 to 4 stand part of the Bill.

Mr. Al-Rawi: Madam Chair, I am told by the drafters that we have a small typographical error to take care of at clause 4(b)(i).

Madam Chairman: Okay. So therefore, let me—

Mr. Al-Rawi: I apologize. I was only just alerted to this; 1 to 3.

Madam Chairman: Yes.

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

Clause 4.

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

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, in clause 4 subclause (b), where we state in “subsection (15)”, that should really be “section 15” and nothing in brackets. So delete “subsection (15)” and insert instead “section 15-”.

Madam Chairman: Right. The question is that clause 4 be amended as follows, to delete the word “sub” before “section” and to—maybe I should say, to delete the words “subsection (15)” and replace it with “section 15”.

Mr. Al-Rawi: “-”.

Question put and agreed to

Clause 4, as amended, ordered to stand part of the Bill.

Question put and agreed to: That the Bill, as amended, be reported to the House.

House resumed.

Hon. F. Al-Rawi: Madam Speaker, I wish to report that the Miscellaneous Provisions (Age of Retirement of Judges, Interception and Chief Judicial Officers), Bill, 2019, was considered in committee of the whole and approved with amendments. I now beg to move that the House agree with this report from the committee.

Question put and agreed to.

Bill reported, with amendment, read the third time and passed.

**JOINT SELECT COMMITTEE REPORT
MUTUAL ADMINISTRATIVE ASSISTANCE
IN TAX MATTERS BILL, 2018**

(Adoption)

UNREVISED

Order read for resuming adjourned debate on question [February 12, 2020]:
Be it resolved that this House adopt the report of the Joint Select Committee appointed to consider and report on the Mutual Administrative Assistance in Tax Matters, Bill, 2018, the Tax Information Exchange Agreement Bill, 2018, and the Income Tax Amendment Bill, 2019, in the Fifth Session, Eleventh Parliament.

Question again proposed.

Madam Speaker: I now call upon the Member for Diego Martin North/East who has 24 minutes of original speaking time remaining. [*Desk thumping*]

Hon. C. Imbert: Thank you, Madam Speaker. Madam Speaker, just let me refresh the memories of hon. Members. What we are debating or what I am winding up on is the report of the Joint Select Committee appointed to consider and report on the Mutual Administrative Assistance in Tax Matters Bill, 2018, the Tax Information Exchange Agreements Bill, 2018, and the Income Tax (Amdt.) Bill, 2019.

On the last occasion we on this side had got the impression that hon. Members opposite would not support the legislation despite its importance. And we got that impression because the hon. Attorney General sat down twice and called upon hon. Members opposite to declare whether they were supporting the package of Bills or not. The Member for Naparima was quite obstreperous in his response. He shouted out, “You cannot bully me!”, but he did not explain what he meant by that. The normal meaning of “you cannot bully me” means I will not comply with what you are asking for.

The hon. Member for Chaguanas East was asked the same question by the hon. Attorney General and, I think he also gave way to allow the hon. Member for Chaguanas East to indicate whether he was supporting the package of Bills or not.

And the hon. Member for Chaguanas East said, “You cannot distract me.” So, we had the hon. Member for Naparima saying, “You cannot bully me” and the hon. Member for Chaguanas East saying he will not be distracted. Yet the hon. Attorney General called upon the two hon. Members to be specific, what are you saying?—either you are supporting the Bill or not, and they chose not to be clear in any form or fashion. In fact, they were certainly unclear. But subsequent to that after the two Members involved refused to indicate whether they were supporting the legislation or not, we learnt by way of a press release that mysteriously the Opposition had had a caucus and had decided to support the legislation.

However, we on this side are not members of the Opposition caucus. We have no spies in that caucus. We do not receive reports from that caucus. I have never seen minutes from the UNC caucus. I did not receive any text messages, any WhatsApps, any emails, any—I think there are other forms of social media now, you have Snapchat, you have Telegram, Twitter. I received no communication whatsoever, and nobody else on this side received any communication whatsoever that the Opposition UNC had had a caucus and had decided in that caucus to support the package of Bills.

So I thought that was a bit in the left field for the hon. Member for Pointe-a-Pierre to claim that they had a caucus, implying that we “shoudda know” that they had a caucus and decided to support the Bills. Anyway, the bottom line is, Madam Speaker, that we received by way of a statement in the newspapers by the hon. Member for Pointe-a-Pierre that they intend to support the Bills.

Mr. Al-Rawi: Finally.

Hon. C. Imbert: There is always a sting in the tail though, always. But before I go to that, I want to personally congratulate the Attorney General [*Desk thumping*] and I do not associate myself with the remarks of the Member for St. Augustine

that the Attorney General needs to be careful about who is congratulating him. If we take that basket from the hon. Member for St. Augustine we would never congratulate anybody on this side, so I shall not—I have been around too long, I am not taking that basket. So, I want to personally congratulate the Attorney General.

You see, Madam Speaker, this package of Bills, the Mutual Administrative Assistance in Tax Matters, Tax Information Exchange Agreements, Income Tax (Amdt.) are required to get Trinidad and Tobago off of a list, a non-compliant list from a group called the Global Forum, which is comprised primarily of members of the OECD.

There is also another group called the EU Council of Ministers. The EU Council of Ministers piggybacks on whatever the Global Forum says, and both of them piggyback on what FATF says.

Now within the Financial Action Task Force, which is the world body, you have regional bodies, and the Trinidad and Tobago is a member of the Caribbean Financial Action Task Force group. And Trinidad and Tobago for one reason or another was the first country to go through the final round of assessment by the Financial Action Task Force.

The Attorney General I must say—as Minister of Finance my role has been to support the work of the Attorney General in this matter even though it is the Financial Action Task Force, it deals with anti-money laundering and terrorist financing in particular, and the Attorney General has been at forefront of this matter always jumping on a plane, and we were a bit concerned in the beginning, you know, about all of these meetings, these FATF meetings where you have to send a big delegation comprising persons from the Ministry of Finance, from the police, from the Attorney General's Office and various other agencies, and a series

of interrogations over the last several years. And one of the places the Attorney General found himself in on several occasions was in Paris, because this where a lot of it takes place. Not so, Attorney General?

Mr. Al-Rawi: OECD headquarters.

Hon. C. Imbert: OECD headquarters. And in the last four years the Attorney General has been princely responsible for the crafting, piloting, debating and passage of some 23 pieces of legislation. And I must say, like all of us we were a bit concerned, you know, these organization say if you do this you will get off the list, but the goalposts are always moving, always moving, every year is something new, they come up with something. You have now base erosion profit sharing, special economic zones.

So I must say, when the Attorney General told us that it was off to Paris in February, just before Carnival as a matter of fact, and he was quite confident that after Trinidad and Tobago was examined, interrogated and FATF looked at the work done by Trinidad and Tobago, we would come off the FATF watch list. I must say that I, like most people, had a little scepticism and therefore, it is the warmest congratulations I give to the Attorney General [*Desk thumping*] the warmest congratulations. He did it with vigour, he did it with purpose, he did with energy, and in February, one the 21st of February, 2020, Trinidad and Tobago was officially removed from the FATF watch list or grey list whatever you want to call it. [*Desk thumping*]

And if you go to the FATF website, Madam Speaker, if you go to the FATF website and you look at the outcome of that forum, that meeting that took place in February of 2020 and you go there and you look under the heading “countries specific processes”, and you look under jurisdictions under increased monitoring, the only country that is listed as being no longer subject to monitoring on the

FATF website is Trinidad and Tobago. I must congratulate the Attorney General for his work. You know, the media has a habit of publicizing things that are fashionable. This did not really make the coverage it deserved. Four years of hard work removing Trinidad and Tobago from the FATF blacklist and resolving issues with correspondent banking and all sorts of other things that we would have had if we had not achieved this.

I want to let people know, it is a little known fact that within the Caribbean The Bahamas is on the FATF grey list, and while Trinidad and Tobago came off in that February meeting; these countries went on, Barbados and Jamaica. So whereas we came off, Bahamas went on late last year and now Jamaica and Barbados in February have been put on the FATF grey list, so it is a fantastic achievement and should not be trivialized or underscored, and it a fantastic achievement.

And so these matters before us, Madam Speaker, this will take us very far along the journey to getting us off the non-compliant list with the Global Forum. We have go through these Bills in great detail, we had a joint select committee. I must say the work in the joint select committee was quite collaborative, a bit different to the statements made in the Parliament, but that is how these things work. You know, Members opposite they are quite cooperative in committee and quite belligerent in the Chamber. But I wish to report, Madam Speaker, that although the Member for Pointe-a-Pierre had sent out a press release indicating that the Opposition was going to support the Bills, I received a telephone call and then an email from the hon. Leader of the Opposition who told me that the Opposition would like us to look at two issues in two of the Bills, and let me indicate what those issues are.

The Opposition in order to give the necessary support would like us to

UNREVISED

revisit the section in the Mutual Administrative Assistance in Tax Matters Bill that deals with legal professional privilege. And this was something that we took a lot of time in the committee talking about this. The Senator from the other place, the Opposition Senator, Saddam Hosein, really spent a lot of time questioning the need to have a waiver of privilege in the legislation. We sought advice and we were told by the OECD that that was a non-negotiable clause.

However, when we looked at what the Leader of the Opposition sent to us yesterday evening I passed it over to the Attorney General, and I am very pleased to say that the Attorney General, with some fine-tuning, we can go along with the amendment proposed by the hon. Leader of the Opposition with respect to the Mutual Administrative Assistance in Tax Matters Bill. In fact, the Attorney General has improved upon the proposed amendment by the Leader of the Opposition by making it very specific to the Mutual Administrative Assistance in Tax Matters Act, 2020, rather than the previous wording which was “other enactments for similar purposes”. So that, this question of legal professional privilege, the legislation would be very specific to the Act, the Mutual Administrative Assistance in Tax Matters Act, and double taxation agreement. So that we have more or less adopted the entire proposal made by the Leader of the Opposition and we have improved it.

The Leader of the Opposition also spoke to another matter asking that the order that is referred to in the Tax Information Exchange Agreements Bill, 2018, that the order be subject to negative resolution. We looked at that. On the face of it appears simple, but it is not. And the reason why this change is being requested is that there was a similar provision in FATCA or there was a similar provision before, and when we passed FATCA which we had to do in a special majority, so we had to go along what was being asked of us by the other side, the provision to

lay these agreements in Parliament had been removed, but I want to advise Members opposite, sometimes you do not always get proper advice from your learned counsel.

If one goes to the report before the House we are reinserting that clause in the committee report. On page 232 of the committee report, we are reinserting a clause, and change being made is renumber clause 5, this is in the Tax Information Exchange Agreements Bill, 2018:

“Renumber clause 5 as clause 5(1) and insert after clause 5(1) as renumbered the following new subclause:

‘An order under subsection (1) shall be laid in both Houses of Parliament.’”

So that we are putting back in what was in FATCA before so there is no need to go with the amendment. And in any event, as Attorney General advised me, it is a presidential order and you cannot subject a presidential order to negative resolution. The Parliament has no power to change a presidential order, but we are putting back in the clause where we are changing 5, clause 5 of—if one goes to the original Tax Exchange Agreements Bill, you have to pull it up online, not from the report. I had that difficulty myself, I went into the report trying to find it, so I went onto the Parliament website and I found it.

And if you go to clause 5 of the Tax Information Exchange Agreements, Bill 2018, and you go to clause 5, what you will see now is in the Bill is:

“The President may, by Order, declare a tax information exchange agreement specified in the Order to be a declared agreement for the purposes of this Act.”

We are now making that 5 subsection (1) and adding a subsection (2) that this order must be laid in Parliament, which is the same thing that was there before we

did the FATCA change. Okay?

And as I said, we cannot negative a presidential order. So to wrap it up we accepted the amendment drafted by the Leader of the Opposition and we have improved upon it by making it specific to the Mutual Administrative Assistance in Tax Matters. We have improved upon it, but we have accepted—I do not know why the Leader of the Opposition is behaving like this, Madam Speaker, we have accepted the—[*Crosstalk*—]amendment drafted by Leader of the Opposition. [*Desk thumping*] We have accepted it and we are just improving on it and making it a little better. [*Crosstalk*]

So, Madam Speaker, I do not think I need to detain the Parliament anymore, because as a wise old soul told me once—you know, Madam Speaker, he came to this Parliament in 1994 or some year like that to change financial year. And the then Minister of Finance Minister Mottley told he had a discussion with then Leader of the Opposition Mr. Panday and he had got his support to change the financial year from ending on December 31st to ending on September 30th and the reason for that was simple. We have a rainy season and we have a dry season, so that if you start off your financial year in January, by the time you get around to planning and organizing your projects, you are in the rainy season. So it was a very practical solution to make the financial year begin on October 1st.

So, Mr. Mottley told me, and I am reporting now, this is not hearsay, that, he had spoken to Mr. Panday about it, and Mr. Panday said, “No problem man, bring it”; so came to the Parliament and the UNC or the ULF whoever it was at that time, that was ULF I think, [*Interruption*] we are talking about 1993/94, I am not sure it was UNC yet, it may have been—vote against the Bill. It most was the most astonishing thing, the most astonishing thing. And what was ironic about that whole thing is that 1996 or 1997 or thereabouts when the UNC was in

Government, they brought the same Bill and passed it, the exact same Bill and passed it because Mr. Mottley had been advised that to change the financial year you required a special majority, so this is why he had sought the support of the then Opposition which was not given. And then the UNC came in and passed it with a simple majority.

Hon. Member: What is the moral of the story?

Hon. C. Imbert: The moral of the story is and, Madam Speaker, I am speaking to you, I would not respond to remarks [*Laughter*] from across the floor. I will not respond to remarks from across the floor. The moral of the story is, Parliament is to pass laws, we are here to pass laws, so with the support of the Opposition, I beg to move, and we shall pass these laws, Madam Speaker. [*Desk thumping*] So do not do a Panday on “meh”.

Madam Speaker: Minister of Finance, I am not sure I heard you say, “you beg to move”.

Hon. C. Imbert: I beg to move.

Madam Speaker: Right.

Question put and agreed to. Report adopted.

5.30 p.m.

Hon. C. Imbert: Thank you, Madam Speaker. Madam Speaker, in accordance with Standing Order 66(4), I beg to move that a Bill entitled an Act to Implement the Multi-Lateral Convention on Mutual Administrative Assistance in Tax Matters which would make provision for the implementation of agreements between Trinidad and Tobago and other States, to provide for the exchange of information for the purposes of taxation and matters incidental thereto be forthwith read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Hon. C. Imbert: Thank you, Madam Speaker, as provided by Standing Order 68(1), I beg to move that the Mutual Administrative Assistance in Tax Matters Bill, 2018 be committed to a committee of the whole.

Bill committed to a committee of the whole House.

House in committee.

Mr. Imbert: And by the way, Madam Speaker, I do not know if I need to say this, but for the record it is the amended Bill in the report. It is the amended Bill in the report, okay. Right. *[Interruption]*

Madam Chairman: Yes, because we adopted the report so it is that Bill. Yes?

Clauses 1 to 25 ordered to stand part of the Bill.

Schedules 1 to 6 ordered to stand part of the Bill.

Mr. Imbert: Madam Chairman, may I just point out that Schedule 6 in the Bill before you is actually now Schedule 7 as a result of what happened in the report. Okay? So what we are really looking at now to amend is what would be before you as Schedule 6.

Mr. Al-Rawi: Old Schedule 6.

Mr. Imbert: Old Schedule 6, renumbered Schedule 7.

Mr. Al-Rawi: Which is the last page of the Bill.

Mr. Imbert: Page 176 of the Bill.

Mr. Al-Rawi: Page 178.

Mr. Imbert: 178?

Mr. Al-Rawi: Yeah.

Mr. Imbert: Okay 178, sorry, 178. I have 176.

Madam Chairman: So, Minister of Finance, if I understand you, you are saying there are only now six—

Mr. Imbert: No, no, no, what was Schedule 6 is now Schedule 7.

Mr. Al-Rawi: Madam Chairman, it is just so that Members could follow in the hard copy, because what we have before us, the report does not have the amended Bill before it that way. So for the ease of following the proposed amendments, the old Bill, what was described as Schedule 6 is in fact now Schedule 7.

Madam Chairman: Okay. So if Members go to page 370—

Mr. Al-Rawi: The last page, 178. The last, last page.

Mr. Imbert: They are saying they have page 3-something.

Mr. Al-Rawi: Not in the report, eh. Sorry, I apologize, I am talking from the Bill. If you have the old Bill in your hand it would be the final last page of the mac Bill, which is headed Schedule 6 at the top continued, that is the last bit. So, Schedule 6 starts just a “lil bit” earlier at page 176. These are the consequential amendments to the Income Tax Act, Central Bank Act, et cetera.

Madam Chairman: But, may I ask, in the report at page 370 would that not be easier for Members to follow? It is headed Schedule 6/7, and I think that captures—page 370. Yes, it is 6 deleted 7. Yes?

Mr. Al-Rawi: Madam Chairman, what happens is that because the report was printed apparently at different times but the same text, the page numbers are different, so the page numbers in the report I have are different from yours.

Madam Chairman: Okay. All right, so we are now on page 370, and I think this is where the amended—

Mr. Imbert: Yes, we have an amendment to Schedule 7, it has been circulated, Madam Chairman, and—

Madam Chairman: Right, sure.

Mr. Imbert: You go ahead.

Madam Chairman: One minute please, Member.

Mr. Imbert: Yes, you press on.

Schedule 7.

Question proposed: That Schedule 7 stand part of the Bill.

Mr. Imbert: Thank you, Madam Chairman. We have an amendment and it has been circulated to hon. Members, and it is typographical in nature. Because we have been at this for so long, we started off with 2016, then went to 2017, then 2018, 2019, so we have to change the years that appear in the original part. Okay? And then we have to change the name of the Act and so on. It is self-explanatory. You can see what we are doing is simply cleaning up some typographical matters.

Madam Chairman: Member for Siparia.

Mrs. Persad-Bissessar SC: We are in agreement with the change of the year from '18 to '19, but I think I would like to say a little more, and I appreciate that the hon Minister has acknowledged our input into this amendment, but it is a very important amendment. Because in the report itself it is stated that you would be removing legal professional privilege from information to be shared, that was the existing 117 here. You see capital A, B, and then 2 on page 270 referring to 117 of the Income Tax Act, so it would have been removing legal professional privilege. And in the report itself, and this is why I want to make the point, because we see the reports coming and we think they are complete reports, and they are not always complete reports. So in this report the issue of legal professional privilege at page—just at the start of the report, page 4, talks about legal professional privilege and reads as follows:

“During the **First meeting**, your Committee also discussed whether there should be an exception to legal professional privilege as proposed under the consequential amendment of the **Income Tax Act Chap 75:01**, specifically the new clause 117(2).”—which is what we just looked at here.

And the committee:

“Whether the clause effectively creates an exception to confidential”—legal LPP and—

“Whether”—the LPP—“does not attach the documents or records delivered to an attorney in an attempt to protect such documents or records from disclosure...”

The report continues at page 5:

“Following its consideration of these issues,”—the committee—“agreed that no further amendments were required.”

So, it was our respectful view that we would be removing legal professional privilege in such a manner that we could still comply with the—

Mr. Al-Rawi: I am so sorry to interrupt hon. Leader. That is the other Bill that we are going to come to, not this one. So we are dealing with the Mutual Assistance Bill and the amendments—

Mrs. Persad-Bissessar SC: I thought we were dealing with the other one.

Mr. Al-Rawi: The LPP point, it comes up in the TIE, the Tax Information Exchange.

Mrs. Persad-Bissessar SC: Assistance, the Mutual Assistance—

Mr. Al-Rawi: Income Tax, sorry. It comes up in the Income Tax (Amdt.), so that particular amendment that you are referring, which we have accepted in the redrafted circulated version, that comes up in the other Bill which we have yet to bring to committee.

Mrs. Persad-Bissessar SC: Okay, I will be guided.

Mr. Al-Rawi: I apologize for interrupting. Madam Chairman, may I just assist further? The schedule, the circulated amendments that you have before you there is a small adjustment to be made to this, and if you would permit me please? So,

you would see we are amending Schedule 7, and then you go through Items A to E. Correct? So, we need to insert a new A and renumber A through E accordingly. And the new paragraph A, coming out of some observations that the Opposition brought forward to us, we would be deleting the amendments to section—to the Income Tax Act, because we are taking that in the separate Bill. That is probably why the Member for Siparia was speaking about it because it was inadvertently referred to here. So one of the observations made by the Member was why put it in the Mutual Assistance Bill, deal with it specifically in the Income Tax Bill. We took that point from the Leader of the Opposition. So what we need to do is the first amendment in the circulated version with respect to Schedule 7, is to say (a), delete paragraph A. That is (b), big A, capital A, and then you would renumber capital A, capital B, capital C, D, E, accordingly as B, C, D, F. Do you follow me?

Hon. Member: Yes.

Mr. Al-Rawi: Should it please you. And then that would springboard into what the Leader of the Opposition was just speaking about which will come up in the Income Tax Act. Thank you.

Madam Chairman: Member for Siparia.

Mrs. Persad-Bissessar SC: I am guided, thank you.

Madam Chairman: Okay. So, the question is that Schedule 7 be amended as circulated.

Question put.

Mr. Imbert: Madam Chairman, I am just getting some clarity here, I want to make sure that what we are doing is correct.

Mr. Al-Rawi: So, this old Bill does not apply, so in the amendments it will be renumbered as accordingly. So we are sure it is correct. And for the purposes of the record, because coming out of committee what happens is, you have readjusted

the old thing—just let me make it abundantly clear—in deleting the big A as we are doing, we are deleting the proposed amendments to the Income Tax Act at section 117A as it would have appeared in the old Schedule. So, just to make it pellucidly clear, so that when we are proofing the Bill that that is recorded then we take care of all options.

Mr. Imbert: So, this thing that appears as a big B here.

Mr. Al-Rawi: Yes, that is the old Bill, so that in the course of the committee's amendments became A.

Mr. Imbert: And that is gone now?

Mr. Al-Rawi: Yes, and what we are proposing is that that goes in the circulated amendments that we have now put out.

Mr. Imbert: Okay. All right.

Madam Chairman: Okay, so I would put the question.

Question put and agreed to.

Schedule 7, as amended, ordered to stand part of the Bill.

Preamble approved.

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

House resumed.

Bill reported, with amendment.

Hon. C. Imbert: This requires a special majority.

Mr. Al-Rawi: To move the third reading.

Hon. C. Imbert: So I have to move the third reading, okay fine. Thank you, Madam Speaker. Madam Speaker, as provided by Standing Order 68 (1), I beg to move that the Mutual Administrative Assistance in Tax Matters Bill, 2018 be committed to a committee of the whole. [*Discussion*]

I apologize for that, this procedure is quite lengthy.

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

Madam Speaker: This Bill requires a three-fifth special majority.

The House voted: Ayes 34

AYES

Al Rawi, Hon. F.

Imbert, Hon. C.

Robinson-Regis, Hon. C.

Deyalsingh, Hon. T.

Hinds, Hon. F.

Mitchell, Hon. R.

Cudjoe, Hon. S.

Garcia, Hon. A.

Gadsby-Dolly, Hon. Dr. N.

Forde, E.

Dillon, Hon. Maj. Gen. E.

Crichlow-Cockburn, Hon. C.

Webster-Roy, Hon. A.

Francis, Hon. Dr. L.

Jennings-Smith, Mrs. G.

Olivierre, Ms. N.

Leonce, A.

Antoine, Brig. Gen. A.

Cuffie, M.

Lee, D.

Persad-Bissessar SC, Mrs. K.

Charles, R.

Rambachan, Dr. S.

Karim, F.

Tewarie, Dr. B.

Moonilal, Dr. R.

Newallo-Hosein, Mrs. C.

Gopeesingh, Dr. T.

Indarsingh, R.

Padarath, B.

Bodoe, Dr. L.

Paray, R.

Gayadeen-Gopeesingh, Mrs. V.

Ramadhhar, P.

Question agreed to. [Desk thumping]

Bill accordingly read the third time and passed.

TAX INFORMATION EXCHANGE AGREEMENTS BILL, 2018

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you, Madam Speaker, having recovered from the effects of the Spanish, I think I have the correct procedure now. In accordance with Standing Order 66 (4), I beg to move:

That a Bill to make provision for the Implementation of agreements between Trinidad and Tobago and other States, providing for the exchange of information for the purposes of taxation, and for related purposes, be forthwith read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Hon. C. Imbert: Thank you, Madam Speaker, as provided by Standing Order 68

(1), I beg to move that the Tax Information Exchange Agreements Bill, 2018 be committed to a committee of the whole.

Bill committed to a committee of the whole House.

House in committee.

Mr. Imbert: Madam Chairman, there are no amendments to this Bill so with your leave, I think we could just do clauses 1 to 10.

Madam Chairman: For the guidance and assistance of all Members, we are at page 373 of the report. So the proposal is that we take en bloc. Yes?

Clauses 1 to 12 ordered to stand part of the Bill.

Preamble approved.

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

House resumed.

Bill reported, without amendment.

Question put and agreed to.

Question proposed: That the Bill be read a third time.

Madam Speaker: This Bill requires a three-fifths special majority. The Clerk will take the division.

The House voted: Ayes 34

AYES

Al Rawi, Hon. F.

Imbert, Hon. C.

Robinson-Regis, Hon. C.

Deyalsingh, Hon. T.

Hinds, Hon. F.

Mitchell, Hon. R.

Cudjoe, Hon. S.

Garcia, Hon. A.

Gadsby-Dolly, Hon. Dr. N.

Forde, E.

Dillon, Hon. Maj. Gen. E.

Crichlow-Cockburn, Hon. C.

Webster-Roy, Hon. A.

Francis, Hon. Dr. L.

Jennings-Smith, Mrs. G.

Olivierre, Ms. N.

Leonce, A.

Antoine, Brig. Gen. A.

Cuffie, M.

Lee, D.

Persad-Bissessar SC, Mrs. K.

Charles, R.

Rambachan, Dr. S.

Karim, F.

Tewarie, Dr. B.

Moonilal, Dr. R.

Newallo-Hosein, Mrs. C.

Gopeesingh, Dr. T.

Indarsingh, R.

Padarath, B.

Bodoe, Dr. L.

Paray, R.

Gayadeen-Gopeesingh, Mrs. V.

Ramadhar, P.

Question agreed to. [Desk thumping]

6.00p.m.

Madam Speaker: Minister of Finance.

Hon. C. Imbert: Thank you, Madam—

Madam Speaker: I guess we are all anticipatory today. The Clerk will read the Bill a third time.

Bill accordingly read the third time and passed.

INCOME TAX (AMDT.) BILL, 2019

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker, in accordance with Standing Order 66(4), I beg to move:

That a Bill to amend the Income Tax Act, Chap. 75:01, be forthwith read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Hon. C. Imbert: Thank you, Madam Speaker. As provided by Standing Order 68 (1), I beg to move that the Income Tax (Amdt.) Bill, 2019 be committed to the Committee of the whole.

Question put and agreed to.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Madam Chairman: The Minister of Finance or the Attorney General.

Mr. Imbert: The Attorney General can explain.

Mr. Al-Rawi: Madam Chair, it was just repetition. So we had agreed in the Committee to delete these things. But because we are doing this on the other point we just in the Committee had decided to delete these words. They are just simply repetitious so we are just cleaning up.

Madam Chairman: Whip? Member for Siparia?

Mrs. Persad-Bissessar SC: No objection, Madam.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clauses 6 to 7 ordered to stand part of the Bill.

Mrs. Persad-Bissessar SC: Just for clarity. In the proposed amendments, it says to clause 8, but in the Bill that I have before me which is at page 383 of this big document; the report, we are looking at amending clause 8, but it seems to me that what is in capital A of the amendments is referring to what is in clause 7. So are we deleting 7?

Mr. Al-Rawi: No. So, section 117A was inserted the last time we did amendments to the Income Tax Act, on several occasions actually. And what we are doing in 117A is a cross reference, that new 117A, which was put in some time ago, speaks to the parameters of section 117(1). So it is correct in its reference, the amendments which you have proposed, Leader of Opposition, are to be caught in the references from 117A back to 117 by the insertion of the new subclauses.

Mrs. Persad-Bissessar SC: So we are looking at clause 8 then?

Mr. Al-Rawi: Yes.

Madam Chairman: Okay, so we will now call clause 8.

Mrs. Persad-Bissessar SC: Clause 7 is gone, so—

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Madam Chairman: We agreed on clause 8 as amended?

Mr. Imbert: I just want to put on the record—

Mrs. Persad-Bissessar SC: But I wanted to put some matters on the record. I had started in the wrong place.

Mr. Imbert: I just want to put on the record that the Opposition Leader has proposed amendments. We have accepted them and the AG has made a slight improvement to them.

Mr. Al-Rawi: Madam Chair, if I can before the Leader wishes to put—the Leader of the Opposition's may on the record, the concept of legal professional privilege is a careful one. We took note of the proposed amendments coming from the Leader of the Opposition and we were grateful for that submitted in writing. It was not as clear in the Committee—we did not have something in writing so we thank you for putting that in.

When we were dealing with the settled version now in circulation, we took specific reference back to the expert coming from the Global Forum, Mr. Donal and his position was to encourage us to specifically be clear that legal professional privilege does not attach to documents if there was an attempt to use LPP to hide them or specifically to hide beneficial ownership. It is why we made the suggested amendments in the way that we have.

There is one caveat that I wish to draw onto the record. We have in this law said that LPP, legal professional privilege, will be determined in accordance with the laws of Trinidad and Tobago. I am just drawing a caution that we have not heard from the Global Forum on that point, we have taken the Leader of the Opposition's recommendation, but I want to put an asterisk on the record. We do not have a position from the Global Forum yet on that, because that potentially

runs:

- (a) into the position that the Global Forum may come back to us on this issue;
- (b) we are dealing with the choice of law;
- (c) if we do not deal with choice of law, we may run afoul of or we may have to deal with the rules of renvoi or double renvoi, as they relate to the application of law from an international law conflict perspective.

So that is a technical way of saying, we may very well be told by the Global Forum yet that we have to look at this again and if that is the case, obviously, there will be a fulsome discussion between the Opposition and Government. Thank you, Ma'am.

Mrs. Persad-Bissessar SC: Thank you very much and I am happy that the proposed amendments which I shared with the Minister of Finance last night— I also gave my rationale for why we wanted to make this amendment so I am glad you have accepted it. But I do have another concern which is that, in the report— and I was making the point earlier, but now in respect to this Bill, that these reports that come from JSCs are not always complete. And it is that one document, which was shared in the Committee—and I have to thank Sen. Saddam Hosein because he was a member of the JSC. There was an email from Chantal La Roche of the Parliament, an email to Members which dealt with the issue of legal professional privilege as well as some other issues that were taken on board. But the report at page 4 reads that:

- “10. During the First meeting, your Committee also discussed whether there should be an exception to legal professional privilege as proposed under the consequential amendment of the Income Tax Act...”—which is what we are now dealing with.

“11. The following issues arose during the discussion of this issue:

- Whether the clause effectively creates an”—exemption—“to confidential professional relationships including legal professional privilege.
- That legal professional privilege does not attach to documents or records delivered to an attorney in an attempt to protect such documents or records from disclosure, nor does it apply where the committal of the criminal offence is involved.

12. Following its consideration of these issues, it was agreed that no further amendments were required.”

This is what the Committee is saying. But the email that was exchanged from the Parliament to the members of the JSC, dated 20 September, 2019, dealt with, firstly, whether the JSC has asked the OECD, and these are the responses of the OECD:

“1. The JSC has asked for the following in terms of information upon request and spontaneously, can we provide a notice to be given to affected persons?”

Now, this is a matter that I had raised in FATCA and I know you have now included giving information where you are sharing a person’s information, they must know it is happening. The second one has to do with the legal professional privilege and this is the response. The question was:

“2 ...should there be an exception to professional privilege as is being provided for under the new 117(2) to the Income Tax Act?...”

—which is where we are. And the email is very clear:

“Jurisdictions are not required to provide information which would disclose information which is the subject of attorney-client privilege. Again, the

safeguard must be compatible with the EOI. The attorney-client privilege attaches to any information which constitutes ‘confidential’—information— “between a client and an attorney, solicitor, or other legal representative...”

—and it continues in that.

In other words, it is saying that you can have this exception and gave the kinds of conditions, which is what the amendment seeks to do, which is to say, for purposes of 117 of the Income Tax Act, information is subject to confidential professional relationship, where the information reveals confidential communication between a client and his legal representative. So we clearly preserve the LPP here.

“...if”—the—“communication is produced for purposes of seeking or”—proof provided—“legal advice or use in existing or...contemplated legal proceedings.”

And this will not apply in cases where information which is communicated or given with the intention of furthering a criminal purpose. So in that case it will not be exempted from LPP.

“...documents or records delivered to”—his legal rep—“in an attempt to protect”—the—“documents or records from disclosure and information on the identity of a person, such as a director or beneficial owner of a company...”

I take the AG’s words about we may have to come back if the Forum, where dispute takes place, who will determine if there is privilege or not, you said the law of Trinidad and Tobago. I took this from Anguilla and I sent it to the hon. Minister of Finance last night what happened in Anguilla and their peer review—which I am sure he will share with you—the whole rationale why we use that, where

Anguilla has not been penalized thus far, to the best of my knowledge. So you may want to check that as well to see—up to their peer two review, they were not impugned for using the law of Anguilla as the law for this purpose of settling disputes.

So I thank you again for that view but I think this was such an important document which had been left out of the bundle of documents in the JSC report and it brings us to other JSCs' reports, because maybe if we had seen this earlier we could have saved us all being here a month later, you could have gone off to Paris with your law all well and truly passed when we were here last time. So I think I would ask if it is that emails, correspondence shared internally in a committee where information is requested from a third party— in this case, information was requested from the OECD to determine, must we must have this or can there be another way, and they did suggest a way.

So in future, with no disrespect to the parliamentary staff or for those who compile these reports, it is most important, and this dealt with three major issues for resolution. So again, Minister of Finance, who took my phone call and said he still has my telephone number saved, I thank you for taking the call and I thank you for putting this into effect through hon. Attorney General with your help. Thank you very much, so we can pass this and go home. Thank you.

Mr. Imbert: Yes, Madam Chairman—

Madam Chairman: Attorney General.

Mr. Imbert: No, just let me say—

Madam Chairman: Minister of Finance.

Mr. Imbert: Firstly, I would always take the calls from the Leader of the Opposition so no need to thank me for that. I just want to put on the record that the communication from Saddam Hosein came on the 20th of September, 2019.

Mrs. Persad-Bissessar SC: Yes.

Mr. Imbert: Okay. If you go to this report—

Mrs. Persad-Bissessar SC: I was trying to find the date.

Mr. Imbert: You would see this report was dated November 20, 2019. So it was after that communication. And it is because of that communication that I did not lay the report in the last session of Parliament, the last session was prorogued around the 20th of September, sometime like that, and I had the opportunity at the time to lay the report but because there was this outstanding matter that came in just before Parliament was due to be prorogued, I deferred the laying of the report and we laid it on the 20th of November.

Mrs. Persad-Bissessar SC: Are you sure— with due respect, page 5 of the report says November 20, 2019.

Mr. Imbert: Yes.

Mrs. Persad-Bissessar SC: And this correspondence came in September—

Mr. Imbert: Before—

Mr. Al Rawi: I can assist everyone on this point.

Mr. Imbert: No, hold on, hold on. I just want to put on the record that the email from Sen. Hosein came two months before and it is because of that email— and it was obvious to me when the Parliament was going to be prorogued that we did not have consensus on this matter, this particular matter of legal professional privilege, that we delayed the laying of the report in the Parliament. And I sent it over—I sent the work of the Committee over to the next session, the one we are now, and I reconvened the Committee simply to discuss this point and some other points. And that is why, in the report of the Committee, you see reference to the comments of Sen. Hosein. Because at page 10 of this report it said:

“Senator Hosein raised the concern whether there should be an exception to

legal professional privilege as proposed under the consequential amendment...”

And then it goes on to say, we had some discussion on it and the CPC rep told us:

“...that this clause”— is—“a mandatory requirement in order to be compliant with”—the—“(OECD)...”

I am just saying this is what we were told then. And as members of the Committee we went back and forth and just as I told you last night, we had a lot of discussion on this because we were going back and forth and we relied upon the experts to tell us whether this was mandatory or not. We were told that it was mandatory and we were also told that the things that would normally be the subject of client-attorney privilege would not be taken away by this amendment. So we were told two things: that it is mandatory and two, it does not affect the issues that the hon. Senator was raising at the time.

Now we have come to this place and I think what we have done is that we have dealt with everything. We have dealt with what we are being told, that this is mandatory, we have dealt with the theory that the clause will not affect legal professional privilege, and now we have tightened it by putting in words to make it clear to the practitioners that this thing will not affect legal professional privilege. Okay?

Mrs. Persad-Bissessar SC: You are a good spinner. You are a good spinner, hon. Minister.

Mr. Al Rawi: Three points please, Madam—

Mrs. Persad-Bissessar SC: If I may just— just a short response and just for the record again. The email giving the position of the OECD is dated 20 September, 2019, and sent to all members.

Mr. Imbert: Yes.

Mrs. Persad-Bissessar SC: The report is dated November 06, 2019.

Mr. Imbert: Yes, afterwards.

Mrs. Persad-Bissessar SC: After.

Mr. Imbert: Yes.

Mrs. Persad- Bissessar SC: But this report— and in this one they said it was mandatory. Then why you did not deal with this?

Mr. Imbert: But we did. That is what we dealt with at the meeting.

Mr. Al- Rawi: He just read from the report.

Mr. Imbert: That is what we dealt with at the meeting. We discussed that email. That is why we reconvened and had another meeting of the Committee specifically to discuss that.

Mrs. Persad-Bissessar SC: Okay. And you decided not to make any change.

Mr. Imbert: Well, we were told then that—two things—

Mrs. Persad- Bissessar SC: It was mandatory.

Mr. Imbert:—that it is mandatory and it would not affect normal legal professional privilege.

Mr. Al Rawi: Just permit me three small points. The reason why that email did not go in is that we laid a Fourth Report and a Fifth Report. It is not in the Fifth Report. The Fourth Report is where we would have caught the email of Sen. Hosein. That is point one. So it is not the Secretariat's fault. In fact, the Fifth Report did not need to have it. Because it came in the fourth session, it would have been in the Fourth Report. That is point one.

Mr. Imbert: That would have been in the interim.

Mr. Al Rawi: Interim, yes. So, there is no fault to the Secretariat and I just wanted to make that clear because we were very ably assisted by the Secretariat. The second point is, the reason that we did not make the amendment for LPP in the

fashion that we are doing today is specifically because in the FATCA debate, section 117A of the Income Tax Act was created and that had the provisions of LPP defined the way it was.

Secondly, the points that the Minister of Finance has made: (a) the mandatory nature of OECD's insistence of this and (b), the fact that the position in LPP is that matters of fraud, et cetera, et cetera, vitiate LPP and then we would have bound by the regular provisions of LPP's parameters. What the amendment today does is that it makes express that which is implied.

The last point that I wish to make, out of an abundance of caution in respect of the other Bill that we already completed as it is related to this, is to— for the purpose of proofing this Bill as it goes to the Senate, I want to make it abundantly clear that when we amended the Income Tax (Amdt.) Bill—sorry, the MACMA, the Mutual Assistance in Criminal Matters Bill. When we amended the mutual assistance Bill, what I said on the record then and I want to repeat it, is that we are deleting the reference to the Income Tax Act, section 117A. Whether that is in paragraph A or paragraph B, I want the proofers to know that we are talking about the 117A in that out of an abundance of caution. And it is for that reason that we are referencing these amendments at this point right now.

Madam Chair, there is one last position, the Official Journal of the European Union as published on the February 27, 2020, speaks to the state of play of the cooperation of the EU with respect to commitments taken by corporative jurisdictions to implement tax, good governance, principles, and under transparency, they specifically say that the following jurisdictions expected to make tangible progress for information usage granted until 31 December, 2020, to do so. And they highlight Turkey, Anguilla as well.

I am pointing this out to you because the Leader of the Opposition asked us

to check and I think she was on the right track. I am pointing out that Anguilla is going to be reviewed on its LPP exception. That is why I have asked you to note for the record that we may very well have to come back potentially, hopefully not unwind the very amendments that we are making today:

- (a) because it is inconsistent with FATCA;
- (b) it is under review by the Global Forum.

Right now, Anguilla's position on this and the only precedent that there is to follow in the amendments that we are making today is Anguilla. So I am drawing the caution that it is not that we do not know what we are doing, we are going ahead with extreme caution on this point. Thank you.

Mrs. Persad-Bissessar SC: [*Inaudible*]—of this package, would it take us off the blacklist?

Hon. Members: No.

Mr. Al Rawi: Madam, if I could explain. I thank the Leader of the Opposition, a very important point. The Global Forum has several steps, the first step is Common Reporting Standard, CRS. The Common Reporting Standard requires us to do the mutual assistance, the tax information exchange and the income tax amendments, which we are doing today. That will allow us to sign the mutual assistance aspect and begin common reporting by tax information exchange. The next step that we have to get to is the base erosion profit shifting position called BEPS and there is one more step, is the special economic zones or the replacement law to free zones.

We have already drafted the BEPS provision and the economic zones position. The EU, I should remind, the Global Forum is extremely time sensitive on this. So Cayman Islands was just blacklisted by them because they submitted at 4.30 in the afternoon as opposed to four o'clock. So when they give you a

deadline date and they tell you four o'clock and you submit at 4.30, they will blacklist you globally. It is the subject of major concern around the world. So there are two more steps to come in.

In Trinidad and Tobago, we have to apply the automatic exchange of financial information to be compliant for that, and the exchange of information, so it is effectively that. So there are three steps, we are doing step one, CRS, Common Reporting Standards; step two, BEPS and SEZs are steps two and three; and there is a process of signing to the treaty and then they come back and review us, peer one, peer two, et cetera. So we have a small process to go. [*Crosstalk*] We will get it done in our second tenure in 2020 to 2025. [*Crosstalk*].

Mr. Charles: Just for information. AG, the BEPS does not require legislative action. It could be done by amending methodologies within the government.

Mr. Al Rawi: Most definitely requires legislation. The SEZ requires—the BEPS inclusion in SEZs will require legislation. So that base erosion point will find itself in the legislation for the SEZ.

Mr. Charles: Do you have a time frame?

Mr. Al Rawi: We are looking to bring it immediately. We are working on it, we are doing the fine-tuning. They would not sit with us to do these things until we had turn this key, which is why we were pushing on this.

Mr. Karim: Thank you very much, Madam Chair. Hon. Attorney General, I think for completion maybe you might want to indicate, with respect to the Mutual Assistance Agreements as another part of the process, how many of those that will be expected to sell and the time frame?

Mr. Imbert: No, hold on. We are signing a convention and once you sign the convention then you can go in.

Mr. Karim: I just wanted to—so that we will be able to have an appreciation of

the process involve.

Mr. Al Rawi: So if we had kept on track from 2011 when we signed up to Global Forum, we would have to have negotiated 13 different treaties. Because we arrived in September 2015 and we had not had any work done, we were compelled to ask for fast track. They sat with us and said, “Look, there is no way you could do these 13 agreements so we will give you a second option which is to do a multilateral treaty and if you sign to that treaty you effectively get all 13 in one shot. So we will do the multilateral convention instead.”

Mr. Imbert: And that is the point I am making. When you sign the convention, you avoid having to do 13 individual agreements. That is the good thing about convention.

Madam Chairman: Okay, and just for the— for clarity and the record, we only circulated one set of amendments. We have been hearing amendments from the Leader of the Opposition and improvement of amendments here—

Mr. Imbert: We have adopted the—

Madam Chairman: Only one set of amendments.

Mr. Imbert: The Leader of the Opposition is free to refine what I am saying, but we have adopted the substance of the proposed amendments—

Mrs. Persad-Bissessar SC: Can we just vote? [*Crosstalk*]

Mr. Imbert:—from the Leader of the Opposition and we have drafted our amendments, so what you have before us is our amendment.

Madam Chairman: Okay, so—[*Crosstalk*]

Mr. Imbert: No, I said we have adopted yours. “Oh gosh, how much time you want me to say that.”

Madam Chairman: The question is—[*Interruption*] No, no, all I am saying is, [*Crosstalk*] we understand that in your contributions, reference was made and sort

Mitchell, Hon. R.

Cudjoe, Hon. S.

Garcia, Hon. A.

Gadsby-Dolly, Hon. Dr. N.

Forde, E.

Dillon, Hon. Maj. Gen. E.

Crichlow-Cockburn, Hon. C.

Webster-Roy, Hon. A.

Francis, Hon. Dr. L.

Jennings-Smith, Mrs. G.

Olivierre, Ms. N.

Leonce, A.

Antoine, Brig. Gen. A.

Cuffie, M.

Lee, D.

Persad-Bissessar SC, Mrs. K.

Charles, R.

Rambachan, Dr. S.

Karim, F.

Tewarie, Dr. B.

Moonilal, Dr. R.

Newallo-Hosein, Mrs. C.

Gopeesingh, Dr. T.

Indarsingh, R.

Padarath, B.

Bodoe, Dr. L.

Paray, R.

Gayadeen-Gopeesingh, Mrs. V.

Ramadhhar, P.

Question agreed to.

Bill accordingly read the third time and passed. [Desk thumping]

6.30 p.m.

SEXUAL OFFENCES (AMENDMENT TO SCHEDULE I) ORDER, 2020

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker.

Madam Speaker, I beg to move the following Motion standing in my name:

Whereas it is provided by section 67(1) of the Sexual Offences Act, Chap. 11:28 (hereinafter referred to as “the Act”) that the Minister may by order, amend Schedule 1;

And whereas it is provided by the said section 67(1) of the Act that every order made under this section shall be subject to affirmative resolution of Parliament;

And whereas the Sexual Offences (Amendment to Schedule 1) Order, 2020 was made by the Minister under section 67(1) of the Act on the 26th day of February, 2020;

And whereas it is expedient to approve the said order:

Be it resolved that the Sexual Offences (Amendment to Schedule 1) Order, 2020 be approved.

Madam Speaker, I am very pleased on this occasion to move a very important amendment to the Sexual Offences Act. Madam Speaker, sexual offences stand as the number two most prevalent and heinous crime in Trinidad and Tobago after murder. The statistics demonstrate that the Judiciary has observed specifically that we are battling a scourge of crime as it relates to sexual offences. Every day in our

newspapers we are unfortunately made witnesses to the grotesque and gruesome savagery of our very young, our very innocent, and our very dear and cherished persons. Babies, young women, young boys, men, women, grandmothers are victims of this.

In today's newspaper alone, we saw a young teenager have a 75-year-old man allegedly drag her into the bushes and assault this young lady. A grandfather at 75, the village atmosphere that we long to return to, when uncles and aunts could discipline a child, where our children could walk safely by in neighbourhoods, we watch this scourge in our society and we wonder, where does this sickness come from?

Madam Speaker, today, we specifically in this order seek to include in the First Schedule to the Sexual Offences Act, we seek to add into Chap. 11:28 the following offences:

- Sexual intercourse with a female under 14 years;
- Sexual intercourse with a female between 14 and 16 years;
- Sexual intercourse with a male under 16 years;
- Sexual intercourse with an adopted minor;
- Sexual intercourse with a minor employee, householder, et cetera, permitting defilement of a minor under 16 years of age.

Why are we doing this? Madam Speaker, this is born in the history of the evolution of the Sexual Offences Act.

In fact, it was in 1986 that the Sexual Offences Act, No. 27 of 1986, was born. It was then Attorney General Russell Martineau in the saddle of Attorney General, and what we did here is that we did a consolidation of a number of our common law offences, we birthed Act No. 27 of 1986, and this particular Act saw us actually bringing into statute sexual assault by a husband in certain

circumstances. It was this law that modernized the concept of marital rape which is now a commonplace feature in our laws, but back then in 1986, we were struggling with the concept of a husband raping his wife. So far back it seems, so normal it is now that consent must be provided even within wedlock.

In this particular province, Madam Speaker, we saw some interesting amendments come to the Sexual Offences Act in the year 2000. Then Attorney General Ramesh Lawrence Maharaj brought forward an interesting concept of having a sex offenders registry, but the sections included then to create a sex offenders registry, those provisions inserted into the law under that Part III of that law introduced by AG Ramesh Lawrence Maharaj, the new sections, 34 onward, two things happened there. We passed the law, and then the population, in particular the Attorney General, the Government, because of the changes in the politics that were ongoing in the years 2000, 2001, 2002, we saw effectively the law passed and never operationalised. That was a tragedy because in the period 2000—2019, not a single sex offender was put onto the registry, and I would like to say that that is probably because the law was badly drafted. Probably not seen then, in no way do I lay any blame to AG Maharaj at that point, but the point is the law as cast under the notification requirements provided that the minute that you are convicted for an offence under the Sexual Offences Act, you had to find yourself reporting to a police station.

How can you be convicted, be sent to jail, and then go and report? Because it was at that nonsense that you would find yourself being put to jail so you could not actually report. So the law, I do not know how it passed, but the law was passed causing a man who was being taken away in handcuffs to go to jail, to find himself before a police station to report. In any event, what we did, we took very careful note of this provision and we as a Government brought forward the

proposals in the 2019 version of the laws that I as Attorney General piloted and passed in the Senate. We went to a Special Select Committee, we heard from a number of interest groups, we heard from a number of organizations, and we made a very comprehensive reform to the sex offenders registry.

Madam Speaker, in the tradition of this Government in this incarnation, we not only passed a law, but we sought to implement the law. We went and we consulted with the stakeholders, the Commissioner of Police, et cetera, the Judiciary, and on the 31st of January, 2020, we brought the sex offenders registry into effect. As is usual as Attorney General, we are very careful in our office to make sure we double check everything, and what we noticed is there was an inadvertent step taken in the special select work where we failed to pick up laws which had been repealed, and let me explain that. When we passed the Children Act, Act No. 12 of 2020, we repealed sections, 6, 7, 8, 10, 11 and 21 of the Sexual Offences Act. Why? Because it concerned children. We migrated those offences as new offences into the Children Act.

Now, the Interpretation Act is very clear that when you repeal a law it does not automatically stop people who were charged before the repeal from going through the process of a trial, acquittal, or conviction, et cetera. In other words then, stopping a law existing today does not mean that the charge that you are facing, and the potential conviction that you suffered, or acquittal that you suffered does not count. And that being the case, Madam Speaker, and we as a Government going a step further, we have been tracking the sexual offences cases in the courts and we are actively aware that there are persons on the docket, persons whose trials have been completed but not yet sentenced who fall into the category of sections 6, 7, 8, 10, 11 and 21 of the Sexual Offences Act.

Madam Speaker, if you would permit me very quickly just to mention some

UNREVISED

of this information. The Children's Authority has published as at the period May 18, 2015, to October 31, 2018, the Children's Authority set out abuse, neglect, and sexual abuse. The Children's Authority statistical information demonstrates that in our beautiful Trinidad and Tobago there have been sexual abuse cases for children zero to 11 months, one to three years old, four to six years old, 11 per cent seven; one to three years old, 5.4 per cent; seven to nine years old, 12.6 per cent of the cases; 10 to 13 years old, 24.3 per cent of the cases; 14 to 15 years old, 25 per cent of the cases; and 16 to 17 years old, 21.3 per cent of the cases. Let me repeat that. Zero to 11 months, 0.4 per cent of the cases. That is what Trinidad and Tobago is.

I will give you the total in terms of the numbers that come before the courts in just a second, but what we see, Madam Speaker, is the gender of sexual abuse victims over the past three years is nearly 85 per cent female and 15 per cent male, roughly. So our little girls are being savaged in our country, and this Government in its holistic criminal justice, stamp-out crime march of operationalization, be it white collar crime, money laundering, guns, sexual offences, we believe that we need to take steps to make the public part of this equation, and that is why we brought very significant amendments to the sex offenders registry.

Every year, Madam Speaker, as Attorney General, having the privilege to be the creator or originator of some laws, I have chosen specifically to take certain causes close to my heart. The abolition of child marriage, the creation of a sex offenders registry, these are two examples of issues close to my heart so that at least I could say whilst I had the privilege under Prime Minister Rowley of conducting an office, that at least I left my mark personally to make a better place for all of our children of Trinidad and Tobago as we all do as Members of Parliament, each and every one of us, opposite and on Government side.

So, Madam Speaker, the statistics coming out of the Judiciary show us an

incredible situation. Sexual offences for the period—before I get to the pending matters, sexual offences, Madam Speaker, in the context of the Magistracy and also the High Court is one statistic I would like to put on the record. What I can tell you is that the research shows us in the period 2000—when we birthed the sex offenders registry—to 2019, there were 1,461 cases in the Magistracy, 232 cases in the High Court, for a total of 1,693 cases; the number of persons ordered and put on to the sex offenders registry, zero. So this country had 1,693 cases and nobody was put onto the sex offenders registry. That is why probably repeat offenders happen because we do not know who they are.

It is the same battle we are fighting on the battle on bail restrictions. We know that thousands of people have passed through with firearms, and yet in the tenure of this Government we cannot get support to restrict bail. Under the UNC, if you had a sidearm in your possession, no bail—120 days, no bail for you. If you are a policeman and you had a firearm and you committed an offence, no bail. Under this Government we cannot get support to put that law back in. Not good enough for us, us the people of Trinidad and Tobago. For the life of me, I cannot understand that. For the life of me and for the life of the people of Trinidad and Tobago, I implore the Opposition to support the bail amendments. I genuinely implore you, as we did today and we passed law, finally, I beg you on behalf of the people of Trinidad and Tobago. [*Desk thumping*]

Madam Speaker, let us look at the statistical position, that is the number of people not on the register, zero. Zero people on the register. Listen to this. Statistics of convictions for sexual offences at the Magistrates' Court, when we take the period 2009—2018, and we come across the position, we have had 1,461 convictions for sexual offences, rape, attempted rape, sexual intercourse without consent, sexual intercourse with a female under 14 years, sexual intercourse with a

mentally subnormal person. Madam Speaker, in the hundreds in each category, no sex offenders registry.

We as a Government birthed the registry on the back of law which we brought, operationalized it, we are tracking the cases in court, we know we do not want to let anybody off that registry. Why? Because we put a safeguard. We have said if a judge considers that you should be on that registry, you should be on that registry. People ought to be able to know who their neighbours are, who you are hiring in your business, who you are hiring as domestic help at home to look after your children. And, Madam Speaker, when we get to the High Court we see a statistic in the period 2000—2018, 232 people in the High Court—that is indictable matters—convicted. Nearly 1,700 wicked souls in this country raping and abusing our most vulnerable, and I would like to say to my colleague, the Member for Tobago East, I would like to say to the Minister of National Security, I would like to say to the Member for Laventille West, I would like to say to the Member for San Fernando East, I would like to say to the Minister of Agriculture, Land and Fisheries who sits on the LRC, the Minister of Health who sits on the LRC with us, thank you on behalf of the people of the Republic of Trinidad and Tobago for operationalizing law. [*Desk thumping*]

You see, we make jokes about architecture. We heard Oropouche East—Oropouche West, forgive me, a little bit earlier, making a joke about the constant reference to architecture. This is no joking game. If you do not have a whole of picture plan the way we do, the way the Attorney General's Office runs where we are tracking every aspect of crime, plant and machinery, people, processes, law and you are operationalizing law, then you are in the wrong game. And I would like to say, Madam Speaker, I had the pleasure of attending the Financial Action Task Force as they considered our criminal justice reform and this is part of it. I had the

pleasure of leading the team, Trinidad and Tobago, into the fact-to-face assessment January 6th and January 7th in Trinidad and Tobago, and I would like to say today, publicly on the record, because the world has celebrated Trinidad and Tobago's performance. It is not the Attorney General's performance.

Trinidad and Tobago's performance in our criminal justice reform, and Oropouche West, in another place—in another time, sorry, was in effect mocking the reforms that we have had. But today, permit me to say on behalf of the people of the Republic of Trinidad and Tobago, thank you to team Judiciary, to team TTPS, to team National Security, [*Desk thumping*] team Ministry of Health, team Ministry of Finance, team Office of the Prime Minister, team Office of the Attorney General. Thank you to the CPC's Department, Mr. Ian Macintyre as senior counsel, to Ms. Ida Eversley who is the Deputy, now acting currently as Chief Parliamentary Counsel, I want to say a special thank you on behalf of the people of Trinidad and Tobago for the hard work and commitment [*Desk thumping*] in taking us over the finish line in this Bill.

I would also like to tell Trinidad and Tobago a success story as I come to an end. There is a young lady in the Office of the Prime Minister, her name is Ms. Vyana Sharma. She was working at the Office of the Attorney General under AG Ramlogan—as you all know, it is public record, I kept the entire staff of the AG's Office. Everybody I inherited from my personal secretary come down, I met working there. You notice there has not been a scandal from the AG's Office? You notice we have put our heads down and done our work? Well, Ms. Vyana Sharma who was elevated to the head of the Anti-Terrorism Unit, Ms. Vyana Sharma was made the co-chair of the International Cooperation Review Group for the Joint Group of the Americas in recognition of the sterling work that Trinidad and Tobago has done and that she in particular has done. [*Desk thumping*] A

little, bright spark of Trinidad and Tobago so impressed the world. And for everybody that is paying attention, I want to underscore this is a PNM Attorney General, the Attorney General of Trinidad and Tobago able to say something that no other Government Minister who sat in that position is able to say, we kept everybody employed.

Normally in Trinidad and Tobago it is slash and burn—as AG I said in that seat—but that is not the case. The Office of the Attorney General does work for the whole of Trinidad and Tobago, Madam Speaker, and every creed, race and political party has a place in that Ministry under my watch as Attorney General, and under Minister Fitzgerald Hinds' watch as a Cabinet Minister in the Ministry of the Attorney General. So, Madam Speaker, this amendment is critical. We have carefully scrubbed the need for this. I am sure that my colleagues opposite ought not to have any complaint or problem with this amendment, and I beg to move. [*Desk thumping*]

Question proposed.

Madam Speaker: Member for Cumuto/Manzanilla.

Mrs. Christine Newallo-Hosein (*Cumuto/Manzanilla*): Thank you very much, Madam Speaker. Madam Speaker, I listened to the Member for San Fernando West and I was a little bit amazed that the Member did not indicate why these sections that were repealed in 2012, how they would have benefited citizens of Trinidad and Tobago. The AG indicated, through his presentation, figures which were in fact offered, the same figures that were offered in 2019 during the Member's debate regarding the ages of sexual abuse being zero to 11 months being 0.4 per cent. The figures were basically very much the same that was said then, and I was wondering why would the Minister bring exactly what was said then, as opposed to making an argument for what has happened now. And, Madam

Speaker, you know, history is in fact a very important aspect of life, it records past events and it helps us to understand what transpired in the past and why.

I would like to give credit to three Attorney Generals in the past—

Mr. Al-Rawi: Attorneys General.

Mrs. C. Newallo-Hosein: Attorneys General—and that is the first one would have been our own esteemed former Prime Minister Kamla Persad-Bissessar [*Desk thumping*] Ramesh Lawrence Maharaj, and Anand Ramlogan. And the reason why I want to give credit to these three Attorneys General is because they took great pains to ensure that the rights of citizens were protected under our Constitution. And as a result of it, Madam Speaker, when they came to Parliament they came with the understanding that our Constitution and the rights of citizens, that they be protected, and even if there were aspects of it to be violated in the pursuit of catching those who are guilty of a crime, great pains were taken to ensure that the rights of those who were lawfully obeying the law would be protected.

And so, I want to just to go back to a Bill that was laid by Verna St. Rose who indicated the purpose of bringing this important Bill to the House. And she indicated that, and if I may read into *Hansard*:

“The more recent Sexual Offences Act of 1986 provides yet another example. Although the Act attempted to modernize and consolidate the criminal law dealing with sexual abuse, including child sexual abuse, common law principles inherited from England reflecting outdated social attitudes remain embedded.”

And so there is a reason why these sections were in fact repealed. She indicated further, she said:

“...it needs to be stated that in keeping with the State’s obligation, under the Convention on the Rights of the Child, a process of re-examination of the

laws relating to the protection of children commenced during the period 1995—2000, and culminated in the enactment in 2000. The package included the Children’s Authority Act; the Children’s Community Residences, Foster Homes and Nurseries Act, the Miscellaneous Provisions (Children) Act; the Adoption of Children Act and the Children (Amdt.) Act.”

7.00 p.m.

“The statute comprising this package is intended to work together to establish an effective child protection regime, however, the last mentioned, the Children (Amdt.) Act of 2000, did not deal with many of the deficiencies identified in the Children Act over the last several decades by various committees and task forces. Indeed, since its enactment in 1925, the Children Act had been amended 19 times.”

She indicated that:

“These amendments, although well-intended, represented a fragmented and piecemeal approach to the development of an effective child protection regime for the children of this country.”

Now, Madam Speaker, this was also the view of Attorney General Anand Ramlogan. Mr. Ramlogan indicated that the history of this Bill will show that its lineage could be traced directly and again, he said the 1925 Children Ordinance and he indicated at that time, the definition of a “child” was a person under the age of 14 with which in itself out of sync with the United Nations Convention on the Rights of the Child which we signed since 1990 and ratified in 1991 but the Convention defined a child as a person who is under the age of 18. Now, since that time there were a number of piecemeal amendments to that law culminating in Act No. 68 of 2000 which was not proclaimed. The AG made note that piecemeal

approach showed that we were approaching this question with a knee-jerk legislative reaction, and every time a problem erupted, we would try to react rather than be proactive and there was no comprehensive plan to actually take on board children rights and treat with one-third of the population which he estimated at that time to be between 350,000 to 400,000 young citizens. He said there was never a master plan to address their rights in the law to update it.

And so the reason why these sections were in fact repealed, Madam Speaker, there was no intention at all for anybody to fall through the loop. As a matter of fact, I would have, at the time, it was Sen. Deyalsingh, who said in 2012:

This Bill seeks to provide some sort of legislative framework to support Trinidad and Tobago's position in the UN Convention of the Rights of the Child.

So in fact, not only the Member for St. Joseph now but also the AG, who was then Senator in the Opposition that is, indicated the importance of in fact having this Bill updated and recognizing that now because we are under the UN Convention that the child is now considered to be under 18 years old.

So the amendments and the adjustments that were made which Sen. Verna St. Rose indicated, she gave an outline of all the new sections, once it was repealed, she indicated that following the election of 2010, that the Cabinet had agreed in 2010 of December, to refer the Children Bill to the Legislative Review Committee to determine policy issues relative to one, the offences of sexual touching and sexual grooming; two, the age of sexual consent, and three, the imposition of more stringent custodial penalties.

And so when this Bill came before the Legislative Review Committee, they were further directed that the Bill should be subjected to wider stakeholder view and reviewed by an ad hoc committee chaired by Mrs. Stephanie Daly. And so,

UNREVISED

Madam Speaker, when we look at the Schedule 1 of 2012, we would have noticed that the very sections that the hon. Minister is seeking to amend today, although they were removed, these new aspects of the law came into being, whether it was in fact grooming and every other matter that was addressed here. The hon. Minister has not indicated—and that is the concern here—what and why this is in fact coming back and everything that is required here concerning children is addressed in the Children Act. The Children Act takes care of every child and a child by definition according to the UN Convention would be anyone under the age of 18 years old.

[MR. DEPUTY SPEAKER *in the Chair*]

So, Mr. Deputy Speaker, it is not my intention to delay this House any longer but just in fact to understand that the hon. Minister indicated that there was no registry and as such, there were no persons who were in the registry for a lack of it, and indicated during his contribution that the law might have been badly crafted back in 1999 when it was in fact proclaimed in 2000. And my question is shortly after that, the People's National Movement would have been in Government until 2010 May. Why is it if the then Government thought that the Bill was badly crafted why did they not take the opportunity then to correct it? That is the first thing. The second thing is that when law is being crafted and it comes to the Parliament, the Opposition has the opportunity to make amendments, to object, to clarify and if it was badly crafted then, is it that the then Opposition was caught with their pants down? [*Desk thumping*] [*Crosstalk*] No, I think you understand everything that I am saying.

So the Minister is indicating that significant work was done and the Minister has taken on the full—[*Crosstalk*] the full—[*Interruption*]

Mr. Deputy Speaker: Please, Members. Proceed, proceed.

UNREVISED

Mrs. C. Newallo-Hosein: Okay, thank you, Sir. Mr. Deputy Speaker, as a result of it, the question is really, among many questions, after all this hard work that was in fact done under the astute leadership of Kamla Persad-Bissessar under the UNC Government, why is the hon. AG of the opinion that all this hard work was solely done by himself? When we in fact have data, we have information, we have on record the number of meetings that were held, whether it is in select committees, whether it was by various consultations, stakeholder consultations extensive. As a matter of fact, it is on record in the *Hansard* where the Attorney General, when the draft came to him, he sent back the Ministers—there were two Ministers at the time. There was the Minister for Gender and Child Development as well as the Minister of the People and Social Development. He actually sent them back on three occasions and indicated to them that they should by wider participation ensure that all stakeholders are on board so that when we bring this Bill to Parliament, that every aspect that could be considered would be in fact put in place for.

But you know, the Attorney General then, Mr. Ramlogan, indicated, as I stated earlier, that there is this habit to bring piecemeal legislation to the House. Whenever there is something wrong, we react as opposed to ensuring that proper things are put in place and to me, today is an example of that. Because I am wondering when this Bill was brought in 2019, did the Minister not recognize that he wanted to put back these amendments or make these amendments? Why wait until all these months? Is it that someone told him that he missed out on something? What is the reasoning for coming today as opposed to dealing with the matter as a whole in 2019?

So, Mr. Deputy Speaker, of course, we are never against ensuring that the rights of our citizens are protected, particularly persons who are affected by any

matter of abuse and more importantly, sexual abuse, especially when it targets our children. The figures that the hon. AG gave, he gave those very figures in 2019. Today, the Minister indicated that they are tracking the cases in court. And so if they are tracking those cases in court right now, why did not the AG bring figures of how many persons because the hon. Minister said that the registry is in fact operational.

So if it is in fact operational, I would have thought that the Minister would have come today and say, well, we have in fact, 14 people, 100 people, 1,600 persons that we have been able to recognize from 2000 to 2019 but that has not been said at all. As a matter of fact, what has been told is a rehash of figures of what was said back in 2019. So in my humble opinion, Mr. Deputy Speaker, I am of the view that the Minister really does not have any registry that is operational.

And so I would like to just conclude, Mr. Deputy Speaker, by indicating that the Opposition has no intention of seeing any persons who have been affected by any sexual abuse being hindered in any way from getting their due date in court, getting help, you know, seeing their perpetrators brought to justice. Absolutely not. But I am just interested in understanding why it is the Minister has to bring it now and there was very little explanation as to why when in fact we understood why in 2012, these very sections were repealed. I thank you. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Mr. Deputy Speaker. I genuinely tried very hard to understand the contribution coming from the Cumuto/Manzanilla and most respectfully—[*Crosstalk*] most respectfully, I could not find the argument. For the benefit of the record, I would like to say I did expressly indicate that the Government, in the course of operationalizing the sex offenders' registry, went to the courts of the Republic of Trinidad and Tobago and identified that there were still matters that persons may have been charged with

that needed to be brought into the Schedule. This legislation is brought for general purport out of an abundance of caution. For me to come today and accept the invitation from Cumuto/Manzanilla to name the cases would be to convert this legislation into offensive legislation which would be shut down by the Privy Council. The case is Liyanage. It went to the Privy Council. You cannot pass law to treat with a case, Cumuto/Manzanilla. And I thought as the first responder that one of your colleagues would have assisted you. I am sure not being an attorney-at-law that you would not have known that but to explain it to you in simple terms, “yuh cyah mark people so”. You cannot pass law to affect individuals, you have to pass law for general purport and intent. So, Mr. Deputy Speaker, I cannot accept the exhortations of my learned colleague.

Further, Mr. Deputy Speaker, nobody’s pants were down, Opposition or Government. We are not interested in understanding whether “ah pants was up or down” on this side, we are interested in the law. And what we can tell you, Mr. Deputy Speaker, is that the abolition of these sections from the Sexual Offences Act was as a result of the Children Act, 2012, which incorporated these offences as new offences. So nobody’s pants were down.

The second thing in that sub-argument is that I think my learned friend forgets. We debated the Sexual Offences Bill here eh know. We had a special select committee in the Senate. So really, this is not a blame game eh know, this is a clear situation where the Attorney General has come to say we have operationalized law, out of an abundance of caution, we want to ensure that the Schedule is populated with repealed offences as well. Quite simple.

I was somewhat surprised at the accolades offered to Attorney General Ramlogan because he has the record of having touched nothing in terms of the law with the children of this country and in protection. That is not the case for the

Member for Siparia. If there is one piece of law that I think was very much worth the while for the benefit of children was the Children Life Fund. I think that that was an excellent piece of law [*Desk thumping*] and the Member for Siparia did well as Prime Minister of this country to pilot that law and bring it in. It is still serving children, Mr. Deputy Speaker, and for that, the Member for Siparia certainly deserves the commendation and acknowledgement and no one should take that away from the hon. Member. I cannot associate Attorney General Ramlogan with that at all however.

So, Mr. Deputy Speaker, I think that this is really very straightforward and clear law and I certainly hope that we would find a unanimous voice in supporting this Bill and I beg to move. [*Desk thumping*]

Question put and agreed to.

Resolved:

That the Sexual Offences (Amendment to Schedule 1) Order, 2020 be approved.

ADJOURNMENT

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Mr. Deputy Speaker. I beg to move that this House do now adjourn to Friday the 6th of March at 1.30 p.m. On that day, the Government proposes to do Motion No. 3 under Committee Business:

Be it resolved that this House adopt the Report of the Joint Select Committee appointed to consider and report on the Private Security Industry Bill, 2019 in the Fifth Session, Eleventh Parliament.

Thank you very much, Mr. Deputy Speaker.

Question put and agreed to.

House adjourned accordingly.

Adjournment

2020.03.04

Adjourned at 7.18 p.m.