

**HOUSE OF REPRESENTATIVES***Friday, May 08, 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 the hon. Ayanna Webster-Roy MP, Member for Tobago East; Mr. Rudranath Indarsingh MP, Member for Couva South; and Ms. Marlene Mc Donald MP, Member for Port of Spain South, who have all requested leave of absence from the today's sitting of the House. The leave which the Members seek is granted.

**Definite Matters of Urgent Public Importance  
(Standing Order 17)**

**Madam Speaker:** Hon. Members, debates pursuant to Standing Order 17 occasion the adjournment of the prearranged business of the House to discuss a matter of urgent public importance. To trigger such an adjournment, the matter to be discussed must satisfy three substantive criteria:

The matter must be definite;

The matter must be urgent; and

The matter must be of public importance.

Definite: Hon. Members, it is clear that some Members have difficulty grasping the meaning of the term "definite". For a matter to be deemed definite, the matter must not only be specific, but its facts must be settled. The matter, event, or issue, must be certain, not hypothetical; or even worse, presumptive. Therefore, hon. Members, mere allegations cannot constitute a definite matter. Indeed, the requirement that the matter must be definite is logically, the first and most critical hurdle. I am sure that all hon. Members would agree that it is

irrational to expect the House to adjourn its scheduled business to debate a matter yet to be confirmed, and about which there is only mere speculation.

Urgent: Secondly, hon. Members, the matter to be raised must also be urgent in the nature of a crisis or emergency that demands the prompt attention of the House. This criterion requires the Member to establish that the definite matter he is seeking to raise is exceedingly urgent, that is to say, it arose suddenly, it is of a pressing nature, and has potentially serious consequences.

So, hon. Members, a matter that has been ongoing for some time will not qualify, such as crime, foreign exchange shortages, or unemployment. That is not to say that these matters are not important, but they simply do not qualify under Standing Order 17.

The urgency should be such that the matter allows no delay and for which a Motion or a resolution with proper notice will be too late. Consequently, a matter that could have been raised at a previous sitting and was not so raised cannot satisfy this rule. In addition, a matter which can be discussed in the ordinary course of business shall not cause this House to set aside its prearranged business.

Public importance: Thirdly, hon. Members, on a proper application of this rule, no Speaker will grant leave to trigger this extraordinary procedure unless the matter to be raised affects the entire country and its urgency and gravity justify it. This is the third and final hurdle.

Hon. Members, all three criteria must be met. Not one, not two, but all three. This is not my interpretation of Standing Order 17. This is well recognised, long settled, Westminster parliamentary practice. Moreover, this is the established practice of this Parliament. Many of you frequently boast of your longstanding service as Members of Parliament. Therefore, most of you know that this rule and its application have existed long before I took this Chair, and that nothing that I have said here is new.

Inevitably, a Member's opinion on whether a matter requires immediate debate is subjective. However, hon. Members, a Speaker relies on well-established dispassionate rules in arriving at a decision on whether the matter raised is sufficiently definite and of sufficient urgency and public importance to change the business of the House to allow for an impromptu debate. While the person who sits in this Chair may change, this rule and its application have been standard and consistent.

I now turn to misuse, misapplications and abuse of the Standing Order. Hon. Members, I have explained the application of Standing Order 17 to this House in the past. This Standing Order does not empower a Member to raise a matter solely because—on his or her opinion that it is in the public interest. I have also been at pains to guide Members on the alternative mechanisms available to them to debate important public interest issues. Standing Order 16 provides an opportunity for a Member to raise an issue and receive a response from the relevant Minister during a short adjournment debate and Private Members' Motions, pursuant to Standing Order 33(3), enable more comprehensive debate.

Therefore, hon. Members, the question should not be: Why does the Speaker deny applications to raise a Matter under Standing Order 17? Rather, the question to be asked and answered is: Why, after having been reminded on countless occasions of the high threshold of this Standing Order 17, do particular Members persist in raising matters which they very well know cannot qualify under this rule?

Hon. Members, given the events of this past week, I have concluded that there is an unsatisfactory level of abuse of this Standing Order by very experienced and knowledgeable Members among you. I am therefore compelled to denounce this apparent abuse and to take steps to address it.

The decisions made and rules followed during a Speaker's tenure must be consistent with the Standing Orders and conventions of this House. Such rulings

form part of the body of practice that governs the operations of the House and which endures from Parliament to Parliament.

Furthermore, hon. Members, Speakers the world over are ably assisted in navigating the maze of rules and procedures by a team of professionals loyal to the Parliament. As many of you are well aware, while a Speaker is the ultimate arbiter of the interpretation of Standing Orders, he or she relies on apolitical, expert advice from principal clerks and procedural staff. These officers possess extensive knowledge and experience in parliamentary practice and procedure and never hesitate to proffer the relevant expert sources when rendering advice. Therefore, rest assured hon. Members that this Speaker's rulings are neither uninformed nor capricious. They are not impulsive, they are not arbitrary, and they certainly are not and will never be driven by the dictates of external factors including mischief, intimidation, or veiled threats.

It is expected that Members from time to time may disagree with the rulings of the Chair. However, what is unusual and unacceptable, hon. Members, is the public cavorting of the admittedly unrepentant Member for Oropouche East. The Member saw it fit to use both traditional and social media outlets to distort the application of the rules of this House. Equally disturbing was the Member, by his own claim, writing to foreign emissaries and international bodies complaining that his recent unsuccessful application under Standing Order 17 was due to bias on the part of the Chair. In fact, the seasoned Member for Oropouche East must have known, or ought to have known, that his application failed even the first and most critical hurdle of the Standing Order.

The unusual conduct is egregious, intolerable and beneath the dignity of this House. To the reasonable mind, the reprehensible behaviour of the Member was intended to have no other effect than to bring this House into odium and to lower

its authority. In fact, the conduct and statements of the Member for Oropouche East are tantamount to contempt.

Hon. Members, any Member who feels aggrieved by a ruling from this Chair can draw his or her concerns to the attention of the Chair, or even to the attention of the House itself. The Member for Oropouche East undoubtedly knows the right way to seek redress. After all, he once held the office of Leader of this House. The Member's actions can, therefore, only be construed as a flagrant display of disrespect to this House, an attempt to mislead and inflame citizens, and to bring this House and the Chair of this House into public odium and disrepute.

To misuse the Standing Orders and then deliberately spread misinformation about the rules, practice and proceedings of this House is an ignoble mischief and should be denounced by all Members of this House. Indeed, if the Member of Oropouche East has a modicum of decency left, he will apologise to this House for his opprobrious conduct.

Hon. Members, in an effort to avert a recurrence of the dastardly events of the recent past, I have directed the Clerk to issue to Members, as well as to the general public, information briefs on this and other misconstrued Standing Orders. I have also directed that Members be advised, as often as may be required, against the submission of applications under Standing Order 17 that do not satisfy its requirements. All Members are kindly urged to be so guided.

### **TRINIDAD AND TOBAGO REVENUE AUTHORITY BILL, 2019**

Bill to establish the Trinidad and Tobago Revenue Authority and for related matters, brought from the Senate [*The Minister of Finance*]; read the first time.

### **PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Public Accounts of the Republic of Trinidad and Tobago for the

Papers Laid

2020.05.08

financial year ended September 30, 2019. [*The Minister of Finance (Hon. Colm Imbert)*]

2. Public Accounts of the Republic of Trinidad and Tobago for the financial year 2019. [*Hon. C. Imbert*]  
*Papers 1 and 2 referred to the Public Accounts Committee.*
3. Value-Added Tax (Bond-Payment Refund) (Amdt.) Regulations, 2020. [*Hon. C. Imbert*]
4. Value-Added Tax (Bond-Payment Refund) (Amdt.) (No. 2) Regulations, 2020. [*Hon. C. Imbert*]
5. Draft Elections and Boundaries Commission Order, 2020. [*The Prime Minister (Hon. Dr. Keith Rowley)*]

## **JOINT SELECT COMMITTEE REPORTS**

### **(Presentation)**

#### **Finance and Legal Affairs**

#### **(Adequacy of Magistrates' Courts Facilities)**

**Mrs. Vidia Gayadeen-Gopeesingh** (*Oropouche West*): Madam Speaker, I have the honour to present:

Eighth Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into Adequacy of Magistrates' Courts Facilities.

**Public Administration and Appropriations Committee****Dr. Lackram Bodo** (*Fyzabad*): Thank you very much. Madam Speaker, I have the honour to present the following reports:

#### **Processing of Payment of Pension and Gratuity**

Twenty-Fourth Report of the Public Administration and Appropriations Committee on an Examination into the Processing of Payment of Pension and Gratuity to Retired Public Officers and Contracted Employees.

#### **Examination into the Development Programme (2018/2019) re THA**

**UNREVISED**

Twenty-Fifth Report of the Public Administration and Appropriations Committee on an Examination into the Development Programme for fiscal year 2018/2019 and Follow-up on the Ministerial Response to the Sixth Report on the Tobago House of Assembly.

### **URGENT QUESTIONS**

#### **Food Card Support Shortage (Measures Taken)**

**Mrs. Christine Newallo-Hosein** (*Cumuto/Manzanilla*): Thank you, Madam Speaker. To the hon. Minister of Social Development and Family Services: Could the Minister state precisely what measures will be taken to address the food card support shortage in respect of the School Feeding Programme for the thousands of children who have been left stranded without access to any food cards as promised?

**The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis)**: Thank you very much kindly, Madam Speaker. Madam Speaker, recognizing the socioeconomic and psychosocial consequences likely to follow from the containment measures implemented to address the COVID 19 pandemic, the Ministry of Social Development and Family Services and the Government responded with an array of social support measures designed to cushion these effects particularly amongst the most vulnerable. One such measure was the temporary food support to families of children registered on the School Feeding Programme but who do not have a permanent food card. Support is in the sum of \$510 per month for a three-month period.

The Ministry of Education identified that approximately 79,000 children receive meals under the School Feeding Programme. The Ministry was aware that many were receiving meals at school under the programme, but were not officially registered with the programme. Recognizing that some families have multiple

children attending school whilst others may already be in possession of a permanent food card, the Ministry estimated that 20,500 families will benefit from this initiative. To expedite this measure, all 41 Members of Parliament were allocated a total of 500 support food cards to give to a parent or guardian of the children listed on the Ministry's database.

To date, 19,992 cards were delivered to MPs to distribute to families. Expenditure to date for this, is \$30,587,760. Recognizing, however, that there were some families who were reporting that their children were registered and they were not in receipt of a food card from the MP's office, the Ministry introduced, through the Government, additional food support initiatives to enable such families to meet the nutritional needs and these include the following: emergency food support hampers—

**Madam Speaker:** Member, your time has expired.

**Hon. C. Robinson-Regis:** Thank you.

**Mrs. Newallo-Hosein:** Thank you. Hon. Minister, are you aware that in my constituency alone that over 1,000 qualifying households are yet to receive food cards and that the Minister is speaking about assistance coming which is very slow—

**Madam Speaker:** The question is that, is the Minister aware?

**Mrs. Newallo-Hosein:** Is the Minister—

**Madam Speaker:** All right. Minister, could you answer that question please?

**Hon. C. Robinson-Regis:** I am not so aware.

**Mrs. Newallo-Hosein:** Can the hon. Minister indicate what will become of these households that have not received any assistance because the other have received for three months and these people will not receive for three months?

**Hon. C. Robinson-Regis:** Thank you, Ma'am. There are emergency food hampers; 14,000 have been given to the regional corporations. There are market

boxes and vouchers each worth \$500; 30,000 will be distributed to constituencies. Madam Speaker, we are doing what we think is best for the people of Trinidad and Tobago, and also we have food support by way of the churches, mosques, mandirs, and food support by way of the Ministry of Rural Development and Local Government. Madam Speaker, for the churches it is \$30 million, and for the Ministry it is \$30 million. So, Madam Speaker, we do believe that we have covered most, if not all the persons who are vulnerable and who are in need. Thank you very much, Madam Speaker.

### **COVID 19 Antibody Testing**

**Dr. Lackram Bodoie** (*Fyzabad*): Thank you, Madam Speaker. To the Minister of Health: Could the Minister indicate whether antibody testing is currently being used as part of the COVID 19 protocol to define and quantify immunity in the population?

**The Minister of Health (Hon. Terrence Deyalsingh)**: Thank you very much, Madam Speaker, and I am grateful for the question. Madam Speaker, for completeness there are two types of testing, antibody testing which measures the body's immune response versus PCR testing which we do which detects the actual virus' genetic material in a person. The PCR testing is the gold standard which we use in Trinidad and Tobago which is 99.96 per cent accurate. Madam Speaker, the antibody testing that my colleague is asking about is used to determine population spread. However, the FDA recently announced that it is disappointed with the accuracy of these tests. Some of these tests are as low as 85 per cent accurate, which means 15 per cent gives you a false negative as opposed to PCR which is 99.96 per cent positive.

I want to quote from FDA Commissioner Stephen Hahn. He emphasized: "Whether a test should be a 'ticket for someone to go back to work as the sole item, my opinion on that would be no, because there are a lot of unanswered

questions...”—as this applies to antibody testing. So again, Trinidad and Tobago is not relying on antibody testing which has proven to be totally inaccurate. The FDA is now reluctantly and belatedly approving tests because they described it as a wild Wild West, and we are sticking for now with PCR testing which is 99.96 accurate, and it is this sticking to protocols which, as I have said, and CMO has said, has put Trinidad and Tobago in the position it is in now, recognized that we have done the right thing. So the answer is no to antibody testing, yes to PCR and I thank you.

**Dr. Bodoë:** Thank you, Minister, for that response. Minister, in view of reports that private laboratories are providing COVID 19 antibody testing, what guidance would you give to the members of the public?

**Hon. T. Deyalsingh:** And again I thank the Member for the question. I would advise patients who go to private labs not to do so because of the inaccuracy. I advise private labs, this is not a time to put commercial interest before the national interest, and I would refer both patient and private labs to legal regulations made by the Minister, No. 8 Regulations of 2020, paragraph 8, where it puts a positive obligation on both the lab and the patient that test results are only to be sent to the Ministry of Health; and if both the lab or the patient does not comply there is a fine of \$50,000 and imprisonment for six months, and this is solely to protect the public interest to make sure we have results which can stand both local and international scrutiny. So my advice to the public is not, not to go to private labs until they are so authorized. Thank you very much, Madam Speaker.

**Dr. Bodoë:** Minister, whilst I agree and recognize that there are shortcomings to the antibody testing, does the Ministry intend at any point in time to gather data and information from antibody testing from those 116 patients as a clinical tool for information later on?

**Hon. T. Deyalsingh:** Thank you very much. I would have announced at the press conference yesterday that the Ministry of Health is doing just that. We are going to be doing research, a retrospective study, into all aspects of our handling of the 116 COVID positive patients to date. In that, one of the papers is going to be, I think it is paper No. 1, the clinical experience, signs and systems, testing, and coming up now with new case definitions based on new symptomatology like loss of taste, loss of smell, silent hypoxia, COVID toes and nails in children, and all that will assist us in determining how do we test going forward. And the day we get a serology test that is accurate, specific on comparison with PCR testing, we would look positive at introducing that into the population. Thank you again very much, Madam Speaker.

**Collapse of Oil and Gas Prices  
(Short-Term Relief Pricing Measures)**

**Mr. David Lee (Pointe-a-Pierre):** Thank you, Madam Speaker. To the Minister of Energy and Energy Industries: Given the collapse of the oil and gas prices as well as the unprecedented global economic downturn which have had significant detrimental effects on the local downstream industry, could the Minister state if the Government would be willing to offer short-term relief pricing measures as requested by the downstreamers to protect the energy industry as well as to save thousands of jobs?

**The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam Speaker. Madam Speaker, as this question recognizes, right now the world, the global energy situation is one that is in a dire position. Not only is there an oversupply, but they are also dealing with the ill effects that have added to that oversupply and a lower demand of the pandemic that is COVID 19. This question, and the asking of the Government to offer short-term relief pricing measures, is one that is already and

has been attracting the attention of our national gas aggregator, National Gas Company. They have been working very closely with the Government and have been having very active discussions with both the downstream players in the pet/chem market as well as the upstream suppliers of the gas for the gas value chain.

Additionally, the Cabinet has recently taken a decision—this is yesterday—to bring on board an international company, Gas Strategies, to assist in the whole value chain conversation that is one that needs to take place. But what we are seeing right now is the unprecedented low prices of the commodities of urea, ammonia, and methanol, and that works into a formula. So right now there is no concession to be given by the Government of Trinidad and Tobago. But fortunately, a lot of time has been spent by this administration working on our relationships with all these companies, upstream and downstream, and there are very active productive conversations taking place with the ultimate achievement that we hope for, the protection of our energy industry in Trinidad and Tobago that unfortunately has been touched by the global crisis.

**2.00 p.m.**

### **COVID 19 Grants to Religious Bodies**

**Mrs. Vidia Gayadeen-Gopeesingh** (*Oropouche West*): Could the Minister state how will the \$30 million given to churches and other Government's select religious bodies be monitored and evaluated to ensure that the under-privileged receive help?

**The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis)**: Thank you very kindly, Madam Speaker. Madam Speaker, the grant is covered by an agreement which the religious bodies execute with the Government before receiving their cheques. All beneficiaries agreed to report as follows:

1. To provide monthly reports on the number of persons or households who have benefited from the food programme, and the quantum of funding expended.
2. To provide in writing a close-out report within one month of completion or termination of the initiative, and may be additionally required by the Government to make a presentation on the beneficiaries' experience at a subsequent date mutually agreeable to the parties.
3. To submit any reports on the provision of hampers and food support when are being made available to citizens whose incomes have been adversely affected by COVID 19 or such other report that may be reasonably requested in connection with the performance or the progress of the provision of these services.
4. To respond to any issues that may arise in a timely manner and treat with diplomacy and with urgency.
5. The agreement mandates all organizations to keep their records and the agreement specifies that the organization shall maintain basic demographic information on persons who access the food report, maintain financial and other records that specifically show the use of the grant exclusively for the purposes of the grant and to maintain records for at least three years after the grant period.
6. They must utilize disbursed funds in accordance with the intent and purpose of the grant.
7. Provide all invoices, bills and receipts for all moneys expended.

**Madam Speaker:** The time for Urgent Questions is now spent.

#### **STATEMENT BY MINISTER**

**Madam Speaker:** Hon. Members, I have been advised that there is an agreement for the Prime Minister to speak to the completion of his statement.

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**Representation of the People (Amdt.) Bill, 2020  
(Campaign Finance Reform)**

**The Prime Minister and Minister of Planning and Development (Hon. Dr. Keith Rowley):** Madam Speaker, with the authority of the Cabinet, I make the following statement on the much anticipated Representation of the People (Amdt.) Bill, 2020.

Madam Speaker, upon entering office as Prime Minister I made a solid commitment to the people of this nation that campaign finance reform will be brought to the Parliament. Historically, successive governments have only spoken on this issue of reform. Today, it brings me great satisfaction to inform this august House that my Government, unlike any other before us, has the fortitude to fulfil this promise of presenting legislation to address the issue of campaign finance. It has been a long journey for the country, one that is still some ways from completion. But today, a very significant and giant step is being made. [*Desk thumping*]

Madam Speaker, for me it began early in my tenure as Opposition Leader when, as leader of the PNM, I was the only political representative of this nation who accepted the invitation of the OAS to attend a working meeting on this issue in Jamaica. All governments and opposition parties in Caricom were invited to receive and critique the OAS draft law on campaign finance reform. The meeting was very well attended but sadly, only the PNM in Opposition represented this country. The ruling party and its many coalition partners at the time were unavailable because they had to gather to celebrate the anniversary of their wonderful 2010 victory at a grand event for that purpose in Tobago.

There was a follow-up OAS meeting in Barbados and once again the PNM was present, this time represented by Mr. Ashton Ford, the General Secretary of

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the movement. This issue of campaign finance reform was seen as a priority for the OAS, and the organization kept pushing political entities to embrace the assignment in the hope of getting a regional agreement on a common widely acceptable piece of legislation.

Subsequent to the Barbados meeting, the OAS staff came to Trinidad to try and encourage the authorities here to host a meeting on the subject in furtherance of the effort, but could not interest the then government in participating or hosting such a regional or national event. As Opposition Leader then, I promised the OAS to keep the issue alive and today, it is my first duty to sincerely thank the Attorney General and his very dedicated and hard-working staff for sticking tirelessly to the task of researching and drafting the elements of this very prickly subject in search of something we can all chew upon, if only to guide the modernization of an ancient legislative construct required to clean up our campaigns and protect as well as embellish our democracy. [*Desk thumping*]

Madam Speaker, this Bill, when eventually passed after an appropriate period of public consultation, will represent a new era in our political history. It is part of this Government's anti-crime plan, it is tied to the objectives of our public procurement legislation and it underscores our strategic focus on brazenly tackling money laundering, fraud, corruption and rampant criminality in this country.

Madam Speaker, the current law governing this issue is rooted in antiquated provisions of the Representation of the People Act of 1967, which merely provides a simplistic framework for accountability of a candidate's funding. The law bears no resemblance to more progressive legislative reforms in many other countries, and is replete with inadequacies. The current law does not formally recognize political parties as distinct legal entities that can compete against each other in

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elections, and instead provides for political parties to apply to the Elections and Boundaries Commission to use a symbol for all its candidates.

The financial expenditure reporting requirement under the existing Act applies to the party's candidates and independent candidates only; political parties are not so obliged. The scrutiny therefore, as provided in the current law, is on the candidate rather than the political party itself. The current law does not facilitate or effectively cater for mergers and coalition of political parties. It does not oblige political parties, coalitions or merged political parties to disclose an account for the full campaign expenditure to the Elections and Boundaries Commission, or any regulatory body.

It also impractically, even laughably, limits campaign expenditure to TT \$50,000 in the case of the parliamentary election. The current law does not regulate the role and impact of the media during an election campaign by political parties. The present laissez faire system operates freely to meet the demands of those able to afford the media costs. The reality is that not all political parties and candidates have fair and equitable access to the media for their political campaigns. The current law does not provide alternative sources of funding, such as public funding to even the playing field for all interested in political office to present their unique political messages to the national voters.

The current law does not punish political parties for the misuse and misapplication of funding, which creates the opportunity for corruption and money laundering. It does not place an obligation upon finances of public parties and candidates to disclose the fact of their contributions to the public. The silence is an underlying reason for the public's general distrust as to the true purpose of financial contributions.

In many countries, Madam Speaker, financiers have been accused of contributing to election campaigns for the sole purpose of unfairly benefiting from a reciprocal arrangement with successful candidates. The current law does not regulate an incumbent's government access to state resources before and during an election campaign period. This loophole allows an opportunity to supplement a candidate's resources with state resources.

Madam Speaker, this PNM government recognizes that political parties and candidates are consumers of a global multi-billion dollar political marketing industry. Within this industry there are pollsters, market researchers, public relations consultants, technical advisors and communication specialists. These players offer a range of services designed to access the voter pool to establish and promote a political brand that attracts voters, to craft political messages, to conduct strategic attacks on the image of opposing parties and candidates and most importantly, to sway the voters' choice. Political parties and candidates place great value in investing in campaign strategies to present themselves as competent potential representatives to the electorate in this honorable Parliament.

But, Madam Speaker, we must exercise great caution in order to safeguard our democracy. We simply cannot afford another Cambridge Analytica scandal, where Trinidad and Tobago was identified internationally as the epicenter and ground zero, the starting point of neo-colonial, socio-political manipulation through illegal data mining and micro targeted political campaigning. Imagine this kind of activity could have happened to such a detriment, but there was no requirement in law to record the actions of individuals or organizations and no accounting for the expenditure.

This is the 21<sup>st</sup> Century, Madam Speaker, and without the necessary appropriate reforms, we are babes in the woods, exposed to the ravages of hungry

wolves of home and abroad, wolves whose soiled lips are only prepared to scream “Vindication” as they devour our innocence.

The country will recall the testimony of whistleblower Christopher Wylie, who admitted to a committee of the House of Commons in the United Kingdom that the data acquisition in Trinidad and Tobago conducted in 2013 under the then UNC government was illegal, and that there was a total disregard for our law. He further stated to the House of Commons of the British Parliament that the standard Cambridge Analytica method is that you obtain a government contract from the ruling party, which funds the party’s political work.

Whistleblower Wylie he went on to reveal in a published book with an unpronounceable name, the insider details of Cambridge Analytica’s data mining and psychological manipulation. This method of illegal data acquisition for the purpose of manipulating the electorate has caused Facebook to pay a record US \$5 billion penalty in the United States for deceiving users about their ability to keep personal information private after a year-long investigation into the Cambridge Analytica data breach.

Madam Speaker, Cambridge Analytica, the culprit upon being exposed, quite quickly dissolved itself and has since filed for insolvency proceedings, but its business model and its trainees are still flourishing in the age of misinformation, fake news, data theft and misinformation.

Madam Speaker, this Government will do all in its power to prevent any reoccurrence of this abuse of our laws and abuse of the privacy of our citizens, so as to ensure that a Cambridge Analytica fiasco is never repeated in Trinidad and Tobago. [*Desk thumping*]

Madam Speaker, the Bill as proposed by the Government adopts an egalitarian model of campaign finance laws. The objective of egalitarianism of

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political equality, lowered campaigning costs, preserving integrity and credibility of the political system, ensuring transparency through disclosure, non-discrimination and equitable access to public funding. This egalitarian model is the premise of modern election laws of several countries, including the United Kingdom, Canada, New Zealand, Kenya, India, Jamaica, and the Turks and Caicos Islands. The Representation of the People (Amdt.) Bill, 2020, encapsulates this progressive approach and is modeled upon the legislative scheme set out in Jamaica's Representation of the People Act, amended in 2014 and 2016.

Madam Speaker, in formulating the proposed legislation, the Government had regard to observations of local stakeholders and international experts. Poignant views were found in a series of reports stemming from the early 1970s, including the Wooding Commission on Constitutional Reform, 1974, the Law Reform Commission's "Preliminary Report on Political Parties and the Law". 2007, the joint select committee of the Parliament appointed to propose a legislative framework to govern the financing of election campaigns, 2014, the Elections and Boundaries Commission's policy paper on "Registration of Political Parties and Public Campaign Financing", 2015, and wide stakeholder consultation conducted by the Ministry of the Attorney General and Legal Affairs in its public forum and campaign finance reform in Trinidad and Tobago in 2016.

Collectively, Madam Speaker, these reports and consultations reiterated the need for legislation to regulate the varying aspects of modern election campaign financing. [*Interruption*] I thank you.

**2.20 p.m.**

The Bill proposes to expand the remit of the EBC by establishing a division to be known as the Office of the Registrar of Political Parties responsible for carrying out specified administrative functions and duties, and establish a Registrar

of Political Parties. The Bill will require any association or body of individual citizens of our country intending to be classed and operated as political parties to apply to the Elections and Boundaries Commission to be so registered and introduces a system of voluntary and involuntary deregistration of political parties. The Bill will also introduce a mechanism for merger and coalition arrangements between or amongst political parties. Madam Speaker, the Bill also proposes the imposition of a duty upon the executive officers of registered political parties to account for funding through audits, the filling out of forms of returns and the provision of statements of accounts. The Bill proposes regulation of the sources of donations and the process for receiving them.

For this purpose, Madam Speaker, the national election campaign fund will be established and a specified category of persons and entities would be permitted to contribute to a political party and candidate of their choice. This category will include all citizens of our country who are 18 years and older, citizens in diaspora abroad, trade unions, friendly societies, NPOs, building societies and domestic companies. Thus, we provide members of the public with an opportunity to become actively involved in the democratic electoral process. We will, however, guard our elections by establishing a specified class of non-permissible donors such as foreign governments, agents of those governments, entities engaged in illegal activities and state bodies.

Madam Speaker, the Government of Trinidad and Tobago recognizes that citizens are entitled to donate to political parties or candidate of their choice. The Bill also provides that donations made in excess of \$50,000 shall be regarded as a tax deductible expense and must be publicly disclosed. Further, published information concerning such donations must clearly identify the donor, the nature and amount of that donation, and the date the donation is made. Madam Speaker,

with regard to the critical issue of tendering for government contracts, the Bill provides that where a person, company or other entity makes a contribution to a registered political party or candidate in excess of \$50,000, and within two years before making contribution had entered into a government contract, having a contract value in excess of \$2 million, it shall be declared to the commission no later than 14 days after making the contribution.

In addition, Madam Speaker, all registered political parties will be entitled to receive some element of state funding. The Elections and Boundaries Commission will be responsible for the administration of the system of allocation and payment of the funds from the Consolidated Fund. Madam Speaker, the Bill also importantly provides for election advertisements which are a key tool utilized by political parties and candidates in educating the voting public. The Bill provides that advertisements can only be made by eligible promoters, that is persons authorized by a registered political party or candidate to publish an election advertisement. Such advertisements must contain a condition statement setting out the name and address of the promoter.

Madam Speaker, this Government also recognizes the importance of regulations to accompany this law on campaign finance. The Bill therefore proposes to empower the Minister on the recommendation of the commission to make regulations generally for the better carrying out of the Act.

Madam Speaker, in addition to these commendable proposed reforms, the transitional provision of the Bill provides that a political party existing immediately before the commencement of this proposed law would be required to comply with the legislation within a specified time frame. Additionally, Madam Speaker, party symbols which existed immediately before the commencement of the legislation will be deemed to be registered.

Madam Speaker, democracy and the rule of law are the lifeblood of our beloved nation. Proudly, history shows that we are a people unified in an objective that elections should be conducted freely and fairly. The PNM Government knows that the citizens of this nation strive for such an environment. Our elections present an opportunity for all citizens to actively and confidently participate in creating a representative bureaucracy by campaigning for office and by essential act of voting. Election campaign strategies are revolutionized. The modus operandi is money-driven, consultant-driven, advertisement-driven, media-driven, party-directed and candidate-driven. Madam Speaker, this Government acknowledges that all political parties and candidates face an economic reality that modern campaigning requires enormous funding. That said, across the world, campaign expenditure is staggering and noticeably mounting with each election cycle. The Caribbean has seen its fair share of this trend of “who have more corn feed more fowl”, a threat to the very substance of the concept of democracy.

Indeed, Madam Speaker, the steady rise and the cost of campaigning consistently stirs significant concerns of the very voting public we serve and seek to protect. Their views relate to more than reported gargantuan sums spent, but turns upon the real reason for such spending, and the legitimacy of the financing sourced. These are matters which impact upon the public’s expectation of transparency and accountability, and moreover, the practice of democracy. Poor regulation creates ample opportunity for abuse of the democratic process and wrongful financial gain. We must ensure that campaign financing is sufficiently regulated and the proposed legislation satisfies this requirement.

Finally, Madam Speaker, the Bill is a simple majority Bill and the Government proposes in order to ensure that all interests are fully articulated on a matter of such national importance, that the Bill be referred to a joint select

Statement by Minister (cont'd)  
Hon. Dr. K. Rowley

2020.05.08

committee for consideration, hopefully for a speedy return to this honourable House. I thank you my colleagues, I thank you. [*Desk thumping*]

**Madam Speaker:** Member for Chaguanas West.

**Mr. Singh:** Madam Speaker, in accordance with 24(4), I seek your elucidation. Could the hon. Prime Minister indicate what is the time line you have for the return of the Bill from the Joint Select Committee, having regard that there is—in an answer for general election due this year?

**Hon. Dr. K. Rowley:** Madam Speaker, I thought that an election was due but I did not realize it was imminent. Thank you for telling me. However, the Government would like the Committee to consult the public as quickly as is feasible or possible and of course, to return to the House as quickly as possible. The Government has a majority on that committee and the Government will direct and encourage that this House has this matter for treatment at the earliest feasible opportunity. Thank you.

## **ARRANGEMENT OF BUSINESS**

### **(Introduction of Bills)**

**Madam Speaker:** Hon. Members, as far as this item of business, there is a request that this item be stood down and be reverted later in the proceedings.

*Question put and agreed to.*

## **ELECTIONS AND BOUNDARIES COMMISSION ORDER, 2020**

**The Prime Minister and Minister of Planning and Development (Hon. Dr. Keith Rowley):** Thank you, Madam Speaker. Madam Speaker, may I ask, are we still operating under the half an hour rule?

**Madam Speaker:** Yes, Prime Minister, half an hour for the mover and the first responder.

**Hon. Dr. K. Rowley:** Thank you. Madam Speaker, the Elections and Boundaries

Commission, established under section 71 of the Constitution, Chap. 1:01 of the Republic of Trinidad and Tobago, makes provision— sorry, Madam Speaker, let me start over, my apologies.

Madam Speaker, I beg to move the following Motion:

*Whereas* it is provided by subsection (3) of section 72 of the Constitution that as soon as may be after the Elections and Boundaries Commission has submitted a report under paragraph (a) of subsection (1) of the said section 72, the Minister, designated by the Prime Minister for this purpose, shall lay before the House of Representatives for its approval the draft of an Order by the President for giving effect, whether with or without modifications, to the recommendations contained in the report;

*And whereas* the Elections and Boundaries Commission has submitted a report to the Prime Minister and the Speaker in accordance with the provisions in subsection (1) of the said section 72;

*And whereas* the draft of an Order entitled “the Elections and Boundaries Commission Order, 2020” giving effect, without modifications, to the recommendations of the Elections and Boundaries Commission was laid before the House of Representatives on the 8<sup>th</sup> day of May, 2020:

*Be it resolved* that the Draft Order entitled “the Elections and Boundaries Commission Order, 2020” be approved.

I beg to move.

Thank you, Madam Speaker. Madam Speaker, this, as just mentioned, we are dealing with the Order as required by the Constitution coming to this House from the Elections and Boundaries Commission through the appropriate Minister, requiring that the House approve the recommendations with respect to the changes or lack thereof, with respect to the delimitation. On the subject of delimitation of

electoral districts or constituencies, Madam Speaker, the delimitation of electoral districts or constituencies is influenced by the growth and shifts in the population. It is conducted in accordance with section 72, and the Second Schedule of the Constitution in the case of parliamentary elections. Section 71 of the Constitution establishes the Elections and Boundaries Commission. Section 72(1) of the Constitution states that the commission is charged with reviewing the numbers of boundaries and constituencies into which Trinidad and Tobago is divided. The commission submitted a report dated March 14, 2019, to the Prime Minister and the Speaker of the House on March 19, 2019.

If I may touch briefly on the recommendations made in the report, Madam Speaker. The number of constituencies, that is 39 in Trinidad and two in Tobago, remains unchanged. This was also recommended in the year 2014. In this report of 2019, that is the recommendation of the commission, that we maintain the number in the Parliament at 41; 39 members elected in Trinidad and two in Tobago. With respect to adjustments to the voting population in each constituency, as you know, Madam Speaker, there is a formula in the Constitution that determines— having agreed on the number of constituencies as is recommended here— there is a formula which is not widely known. Because I have heard it said on very, very many occasions by persons who claim to be in the know and stand in defence of other persons in the country, speaking about big constituencies and small constituencies, and ascribing misconduct to the part of some people, usually it is the PNM the misconduct is that some people have small constituencies and therefore, they can get a larger number, and other people are forced to have bigger constituencies where more people are in that constituency, when in fact all that is reflected is the voter turnout in these constituencies.

Because, Madam Speaker, the way the constituencies are determined is that

you divide the number—you divide the total voting population by the number of seats. That is the formula. That gives you the average size of a seat. And the law says that no seat should be more than 10 per cent above that average or 10 per cent below that average. So it is then possible, as you use that formula, which is the fairest that we could have come up with in the very beginning when that was put into the Constitution, that you could have a difference between the smaller seat and the larger seat in terms of numbers of 20 per cent. Up to 10 per cent above you are allowed to go or 10 below. But if the numbers go above 10 per cent or below 10 per cent, then the commission makes the requisite adjustments to bring the numbers in line with that formula where a seat would not be above the average or below the average.

That being so, Madam Speaker, the commission has found it necessary using that formula to make what we consider minor changes in 27—no changes in 27 constituencies. There are 27 constituencies where the numbers in the constituency fall within the requirements of that formula, not being 20 per cent above and not being—not being 10 per cent above, sorry, and not being 10 per cent below. Those constituencies are: Arima, Arouca/Maloney, Barataria/San Juan, Caroni Central, Caroni East, Chaguanas East, Chaguanas West, D'Adabie/O'Meara, Diego Martin Central, Diego Martin North/East, Diego Martin West, Fyzabad, La Brea, La Horquetta/Talparo, Lopinot/Bon Air, Lopinot/Bon Air West, Mayaro, Moruga/Tableland, Naparima, Pointe-a-Pierre, Point Fortin, Princes Town, Siparia, St. Ann's East, St. Augustine, St. Joseph, Tabaquite and Tunapuna. No changes are recommended in those constituency boundaries because the numbers have been found to be within the limits as permitted by the law.

Also, Madam Speaker, it is found to have a requirement for no change in the two Tobago constituencies: Tobago East and Tobago West. And of course, that

being so, it means that there are alterations to the boundaries in 12 constituencies in Trinidad, and these are as follows: in Couva North, due to a transfer of polling divisions 3151 and 3152 from the constituency of Couva South. So Couva North is to receive two constituencies from Couva South to make up the numbers of that constituency to bring it in line—

**Ms. Ramdial:** Couva South.

**Hon. Dr. K. Rowley:** Or, from Couva North to Couva South. We are going down south. Thank you very much. Couva North is contributing two polling divisions, 3152 and 3151 to Couva South. In Couva South— as a result of that, Couva South will change its boundary to absorb 3151/3152.

We also have in the north-east, Cumuto/Manzanilla, due to a transfer to this constituency, polling divisions 2245, 2246, 2252 from Toco/Sangre Grande, and that will affect the boundaries of Toco/Sangre Grande and Cumuto/Manzanilla, which would be expanded. The boundary of Toco/Sangre Grande would be contracted to comply with the law. In Laventille East/Morvant, there will be one polling division to be transferred to that constituency from Laventille West and again, subsequent adjustment of the boundaries there. In Oropouche East, there will be a boundary change transferring polling division 3795 from Oropouche East to Oropouche West. And again, that adjustment would be made. In Port of Spain, we have the Port of Spain North/St. Ann's West, due to transfer of boundary, polling divisions 0670 and 0680 from Port of Spain South to Port of Spain North/St. Ann's West, as well as transfer 0705 to Laventille West.

And as a result of that, Madam Speaker, the boundaries of these three constituencies will be adjusted accordingly to reflect these changes. In San Fernando, San Fernando East, you will see a change where polling divisions 4190 and 4195 would be transferred from San Fernando East to San Fernando West, and

San Fernando West would see a boundary change, expanding its geography, while San Fernando East would have given up those two polling divisions. The 41 constituencies continue, Madam Speaker, to be known by the names by which they are now called, so there would no name change of any constituency even though minor adjustments have been made to the population size here and there. So the boundaries of the 41 constituencies, altered and unaltered, are described as I have just done.

Madam Speaker, if I mention briefly, in 2010, the voting population of Trinidad and Tobago was 1,317,714. That is 1.3 million. By 2015, five years later, the commission reported for the last election that the voting population was 1,349,000. So there was a slight increase from 1.317 to 1.349 between 2010 and 2015, and we await the registration processes that would be completed by the end of the year to determine what the voting population would be. So we are really looking at approximately, if I may hazard a guess, looking at the movement between 2010 and 2015, and 2015 and 2020, we could see a few tens of persons added to the list. Maybe I am not—that is not a guarantee. It all depends on the movement of people, migrants and so on, but it appears as though it is going to be approximately 1.4 million. The population would be 1.4 million. Actually, Madam Speaker, I think I may not be correct there, I was referring not to the voting population but the population. The voting population is just over a million people, but the actual population of the country is in the order of about 1.4 million.

Madam Speaker, it has been a source of great satisfaction to us in Trinidad and Tobago to be regarded as a country which has an Elections and Boundaries Commission in which the population has tremendous confidence. This commission goes about its business without fanfare but is able, upon legal request, to conduct elections at short notice or with longer notice, whether it is the THA

election, general election, local election or by-election, we have had a history of successful conduct of elections in Trinidad and Tobago, and for that we are very grateful. [*Desk thumping*]. And in case we take this for granted, I may hazard the pointing out of a concern that we in Trinidad and Tobago carry, that there has been an election in Caricom almost two months ago and the election results are not yet known and the commission, the equivalent commission in that country is not in the position of reporting, as we normally do here in Trinidad and Tobago within hours. We trust that that situation would be concluded satisfactorily in the very near future, so that those concerns can recede.

Madam Speaker, I am not aware— I have been around a long time in the Parliament and I have followed Parliament for a long time. I am not aware that in recent times that the Parliament has made any adjustments or actually the Government has recommended any adjustments to the House based on change and recommendation of the EBC. But, Madam Speaker, on this occasion we would like to keep that tradition going, in the confidence that we have in the public officials and the board of the EBC in carrying out the duty for which the Constitution authorized them, that they would have done the work that had to be done. We know that registration is an ongoing process, we know that securing the voters list is an onerous duty, we know that they recognize that there is so much riding on free and fair elections, and of course, in confidence in ourselves, and today, Madam Speaker is no different.

So, this Government which I lead, in recommending this Order to the House for its acceptance without amendments or adjustments, is continuing this tradition of the governments of Trinidad and Tobago, of different ages and complexions, having accepted the recommendations to the country by way of the Parliament of the report of the Elections and Boundaries Commission. I so do, Madam Speaker,

on this occasion and thus, I beg to move. [*Desk thumping*]

*Question proposed.*

**Mr. Ganga Singh** (*Chaguanas West*): Thank you, Madam Speaker. Madam Speaker it is my pleasure to rise in the Parliament of our country to speak on the EBC Order, 2020. Madam Speaker, it is a blessing to be alive and in good health in this time of the pandemic. It is in this time of the coronavirus/COVID 19.

Madam Speaker, I wish to take this opportunity to congratulate the citizenry and the residents of our country, the caregivers, the medical personnel, the essential workers, the garbage collectors, the supermarket staff, and by no means the least—last but not least, the hon. Minister of Health and his team, and the Government for rising to the extraordinary challenge in public health, and emerging with some measure of stability. [*Desk thumping*] Just a word of caution, Madam Speaker, that notwithstanding our emergence as the top gun on the Oxford University findings, we still have to be vigilant that we do not return to the pre-pandemic behaviour, social distancing must now be the norm. [*Desk thumping*]

Madam Speaker, having successfully thus far navigated the public health challenge of this pandemic, as a matter of urgency, we need to now focus on the economic recovery of TT. It is not going to be easy with oil and gas prices being at an all-time low, with our industrial base in Point Lisas is, to quote in yesterday's newspaper, "in crisis". The saving grace has been the Heritage and Stabilisation Fund started by the Panday administration in the 1990s, late 1990s. [*Desk thumping*]

Madam Speaker, in this extraordinary time, we are here this evening to debate the Elections and Boundaries Commission Order, 2020. The hon. Prime Minister in piloting this Motion pointed out certain things, in particular, the delimitation, and made reference to a Caricom territory, and I will perhaps make

reference to that myself in my contribution.

**2.50 p.m.**

Madam Speaker, this Order is a condition precedent for the calling of general elections which are due in September. By way of section 69(1) of the Constitution of Trinidad and Tobago:

“A general election”—and I quote—“of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the President, acting in accordance with the advice of the Prime Minister, shall appoint.”

Madam Speaker, but this does not in any way preclude the Prime Minister from calling an election prior to the expiration of his term as section 68(1):

“The President, acting in accordance with the advice of the...”—PM—  
“...may at any time prorogue or dissolve Parliament.”

A section that was utilized twice by former Prime Minister and now deceased Patrick Manning and once by former Prime Minister Panday.

So, Madam Speaker, it is clear that we are in the pathway of an election and that this Order as I indicated a precursor to that. Madam Speaker, although martial language has been used in the challenges faced with the coronavirus and several leaders internationally and locally, including our own Minister of Health have declared war on the virus, section 69(3) of the Constitution contemplates a breakout of war and provides for an extension of five years with not more than 12 months at any point in time. I do not think that will be relevant in the context of this war against the coronavirus.

So what you have, Madam Speaker, to use the Facebook quotation of my colleague, the hon. Member for Laventille West, the Prime Minister can call an election beyond September until December 23. So that is the timeline we have.

And that is why I ask the question with respect to the campaign finance reform, what is the legislative pathway for us to get that piece of legislation in place working prior to the general election of 2020? So the issue that arises at this point in time, Madam Speaker, is that the challenge that we face at this time in the context of this global pandemic simply put, can we host a general election with all the safeguards required for the coronavirus? We must weigh that against the principle that democratic elections constitute the bedrock upon which the institutions and mechanisms of governance are erected.

In other words, Madam Speaker, the whole superstructure of a government is based on the conduct of free and fair elections. In other words it is the terra firma, the structure upon which the superstructure of the State is erected. Madam Speaker, former chairman of the Elections and Boundaries Commission in 2010 provides an idea of the personnel required from the EBC to conduct an election. The chairman states, on page 3 of an address he made prior to the parliamentary election of 2010:

“For the forty-one (41) constituencies there are one thousand, four hundred and seventy-two (1,472) polling divisions. The polling stations established therein are normally sub-divided where the need arises into units of not more than 600-700 electors per station, so there are 2,156 such stations. Election-day staff comprising persons assigned to duty in and at polling stations including Information Officers, and others such as Roving Officers and police officers could total anywhere in the vicinity of thirteen thousand to fifteen thousand...”—personnel.

So that is the EBC and the security staff.

Madam Speaker, in addition to those 2,156 polling stations you have all the major political parties having polling agents. So it is safe to say in each polling

station—so it is safe to say there is in the vicinity of 25,000 people involved in the operation, in the polling stations throughout this country. Madam Speaker, so that is a real challenge, how you are going to manage that and you are going to keep social distancing in place. And I am not even getting involved in the whole issue of how you are going to campaign.

In the newspaper of Tuesday, May 05<sup>th</sup>, the *Guardian* newspaper in an article entitled:

“EBC, political parties look at ‘new normal’ for General Elections

When Guardian Media asked the EBC if there is a framework for what a ‘social distancing’ election would look like the EBC said, ‘This is the first time the world is facing this pandemic. There is no precedent on conducting an election under the prevailing circumstances, not in Trinidad, not anywhere. The EBC continues to assess the local environment.’”

But the article goes on to say the recent election in South Korea—Madam Speaker:

“Social distancing was enforced in the lines outside polling stations, temperatures were checked on entry, hands had to be sanitised and those with a fever were provided with a special voting booth outside the venues. Meanwhile electronic and voting by mail are options for the primaries in the USA.

The EBC...said that electronic voting is not an option for the upcoming election.”

Madam Speaker, section 73 of our Constitution provides that the only way to vote is by way of ballot. So electronic voting is totally out, voting by mail is totally out. The Constitution provides that it is by way of ballot. And that ballot came about, because the 1971 “no vote” campaign against the irregularities and the rigging of the voting machines ensures that there is no other option but ballots for

voting in Trinidad and Tobago.

So, Madam Speaker, the option for us then is that you have that approach that is being taken and the Prime Minister, of course, has not said anything about that beyond the delimitation of the boundaries. Since the introduction of the ballot box, I think in 1976 elections, credible and transparent elections have been an integral part of the political landscape. The Prime Minister indicated that in his speech, that there is a significant level of trust in the process in Trinidad and Tobago. And we have had observers and we do not need to take his word or my word for that matter, in the Trinidad and Tobago parliamentary elections of 07 September, 2015, there was a Commonwealth observer team, and this is what the Commonwealth observer team at page 4 of their report on Trinidad elections had to say:

“These elections affirmed Trinidad and Tobago’s record of conducting credible and transparent elections, and are a testament to the people’s commitment to democracy. Whether they served as polling officials, security personnel, polling agents or participated as voters, it is the people of this country who deserve the greatest commendation for maintaining their country’s strong democratic...”—traditions.

“We were particularly struck by the high level of trust the people of Trinidad and Tobago have in the electoral system and in the Elections and Boundaries Commission...”

But, Madam Speaker, so that is where it is at. And when you compare what the Commonwealth observer team had to say and the Prime Minister in his contribution made reference to what is happening in another Caricom country. And we all know it is Guyana, where the election secretariat is utterly compromised from the Chief Election Officer, the Deputy Chief Election Officer, the Returning

Officer. This is what the Commonwealth Observer Group had to say, Madam Speaker. It is in their report of 18 March, 2020, very recent:

“It is the clear and considered view of the Group that the tabulation processes conducted by the Returning Officer for Region 4, Mr Clairmont Mingo, were not credible, transparent and inclusive.

The series of events that the Group observed in the tabulation of Region 4 results between 3-14 March are of grave concern...”

And they went on to indicate that concern, Madam Speaker.

Madam Speaker, so you have right now in a Caribbean territory, and Prime Minister has spoken out against it, that you have a Caricom observation team but our Chief Elections Officer was part of that team, a five-member delegation. She is not now included. I would really like to know why she did not attend, because there were only three persons at that observation team from Caricom now so that perhaps some explanation would be forthcoming from the Prime Minister. There may be cogent reasons having regard to the COVID—what we are experiencing with respect to that pandemic.

Madam Speaker, so that is where you have a serious problem in Guyana where the personnel are compromised and they are basically engaged in rigging the vote. Madam Speaker, the Chief Elections Officer of India recently indicated, utilizing a well-known quote:

“...eternal vigilance is the price democratic countries pay for liberty.”

It is in this context, Madam Speaker, the Opposition ought to be commended for the court action in which they took and which the judge ruled in a certain way, because notwithstanding the high level of trust placed in the Elections and Boundaries Commission, it is the vigilance of the Opposition in bringing a matter to the court that allowed a ruling to take place by the High Court of this country.

This is from the election petition August 19, 2016, from the *Trinidad Express* by Rickie Ramdass:

“In her ruling Justice Dean-Armorer said that there was nothing in law that gave the EBC the power to extending the voting hours and that it acted unlawfully.

She said that the decision of election officers to extend the voting time past 6 p.m. was not lawful.

Torrential rains and flooding on 7<sup>th</sup> September, 2015, may have impelled the EBC to issue the directive they did. Nonetheless, the uncontrollable weather conditions did not confer on the EBC the power to direct that the law be broken. The EBC, itself a creature of statute, ought at all times to abide by the clear dictates of the law and ought not to purport to dispense with those dictates even if faced with...apparently insurmountable problems. Accordingly, it”—was—“my view and I hold that the extension of the poll on September 7<sup>th</sup> 2015 was illegal and elections officers who failed to close the poll at 6 p.m. acted in breach of section 27(1) of the Election Rules.

However, the judge said that based on the overall conduct of the election, this was the only breach, and that based on the number of voters who cast their ballot between 6 p.m. and 7 p.m. it meant that the outcome of the results would not have been different had the polls closed at 6 p.m.”

The important point for us to note here is that notwithstanding the high level of trust, it is the vigilance for any breach that is what allowed the court to make that kind of finding, Madam Speaker.

Madam Speaker, so it was illegal to extend the time. Similarly, in the most recent local government elections. Madam Speaker, can I indicate how much time?

**Madam Speaker:** You end 3.17.09 p.m.

**Mr. G. Singh:** 3.17 p.m. Thank you.

“UNC writes EBC over ballot ‘mistake’”

And I read from the Darlisa Ghouralal, 21 November, 2019.

“The EBC on Thursday was forced to retrieve defective ballots issued a day earlier and send them to the Government Printery for destruction, for new ballots to be reprinted and the process of the packaging of ballots for Special Electors redone.

UNC General Secretary Davendranath Tancoo said the party was deeply concerned as the issue has affected some 40 electoral districts.”

Madam Speaker, so it is that vigilance for the democracy, vigilance for the price of democracy. So now, Madam Speaker, we come to the issue of the delimitation rules. Madam Speaker, at page 11 of the Draft Order it states and outlines the following prescriptions under boundaries and constituencies. So it is in the Second Schedule of the Constitution. These are the guidelines, the criteria for the establishment of boundaries of constituencies:

1. It is made—“in accordance with...under section 72(1)”—of the Constitution.
- “2. Subject to paragraph 3, the electorate shall so far as is practicable be equal in all constituencies.
3. The number of constituencies in Tobago shall not be less than two.
4. In Trinidad and in Tobago, respectively, the electorate in any constituency shall not be more than one hundred and ten per cent nor be less than ninety per cent of the total electorate of the island divided by the number of constituencies in that island.”

And I will come back to 4 in a bit, Madam Speaker:

- “5. Special attention shall be paid to the needs of sparsely populated areas

which on account of size, isolation or inadequacy of communications cannot adequately be represented by a single Member of Parliament.

6. Natural boundaries such as major highways and rivers shall be used wherever possible.
7. In this Schedule 'Trinidad' means the Island of Trinidad and its offshore islands, and 'Tobago' means the Island of Tobago and its offshore islands."

So what you have is that you have clear criteria laid down in the Constitution as to how the EBC will affect the change of boundaries. So that in—the EBC is saying, Madam Speaker:

“Upon application of Rule 4 of the Second Schedule referred to in the foregoing, the relevant parameters shown in the table below were determined using the figures for the total electorate in Trinidad, and in Tobago respectively; that is, one million, seventy-four thousand, two hundred and twenty-four (1,074,224)—Trinidad—“and forty-nine thousand, nine hundred and twenty seven (49,927)—Tobago.

“Average per constituency, 27,544; 24,964; Permissible Upper Limit, 30,298”—in Trinidad, in Tobago—“27,460; Permissible Lower Limit 24,790”—in Trinidad and—“22,468”—in Tobago.

So, Madam Speaker, then the Order goes on to make adjustments as the Prime Minister indicated to some 12 constituencies, the boundaries of 12 constituencies and leaving 27 without any adjustment whatsoever. These figures, Madam Speaker, were figures that the EBC indicated as of 2018 in the Order, Prime Minister, and that therefore they are pretty up-to-date barring a more subsequent survey.

So, Madam Speaker, what is the issue here? The issue here is that as a

general concern electoral boundaries are constructed in a fair manner and without political partisanship or bias. In other words, there is no gerrymandering. So in other words, you do not delimit an electoral district in a distorted manner for political purposes. These are the criteria, this is what is required, very clear. But what is interesting, Madam Speaker, is that you have an ouster clause in the Constitution. In other words, it says and it says at section 72(7):

“The question of the validity of any Order by the President purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Representatives shall not be enquired into in any Court.”

Madam Speaker, this is obviously a regression, a throwback to the time of colonialism and that therefore an ouster clause has no place in dealing with the fair, transparent and credible process required for general elections in this country. Notwithstanding the presence of the ouster clause, Madam Speaker, in the most recent Privy Council decision in which Mr. Reginald Dumas brought against the President, it is clear that the courts will frown upon any ouster clause that seeks to delimit the rights of individuals.

So, Madam Speaker, that is a matter in which I think having regard to the Prime Minister in his contribution indicating that they are going to further empower the EBC to deal with financing reform or campaign financing reform that that is a matter which should also be engaged in in order for that to be no longer part of the law and instead of forcing matters to go for interpretation. So it is the delimitation, Madam Speaker, and what we have is a spread, 90 per cent of the average electorate is the lowest permissible and 110 per cent is the highest permissible. So that therefore you have a 20 per cent variation taking place.

Madam Speaker, in an article entitled Reforming Constituencies

Boundaries by Carl W. Dundas, Elections Consultant, in the Commonwealth Public Administration Reform, 2004. This is what Mr. Dundas had to say in the context of best practices, Madam Speaker, in dealing with the whole question of spread. And he quotes the example of Malta:

“In the case of Malta, an alteration of the boundaries of any electoral division has to be done in such a manner that the number of members to be returned to the House...for each division is as equal to the electoral quota as is reasonably practicable. However, the size of the electorate in any division cannot be greater or less than five per cent of the electoral quota, the deviation here is allowed for geographical and population factors. The phrase ‘electorate quota’ means a number obtained by dividing the total electorate of Malta by the total of number of”—representatives to return—  
“to the House...”

So what they are saying, Madam Speaker, is that best practices you confine it to a range of 5 per cent, we have 20 per cent. And I must indicate that Jamaica has a 50 per cent range, so it provides room there. There is room in Trinidad but we ought to think in terms of best practice to go to that 5 per cent or seek to get some kind of information from the EBC as to how they can proceed having regard to the plural nature of the society. Because when the Prime Minister spoke about people may go uninformed, speculation so to speak, and they do not know the formula the fact of the matter we must acknowledge the sociology or the society and we must need to act on that. And the other thing too is the numbers. There has to be reliable data, Madam Speaker, reliable data on the whole question of the census. So therefore there is this band of tolerance and we are saying, perhaps in the future there is need to further look at that band of tolerance from the 20 per cent range that is currently taking place.

Madam Speaker, I want to also indicate to the Prime Minister that in his presentation he spoke about the fact that Cambridge Analytica and he went on at length to speak about Cambridge Analytica. The police made a finding and one of the requirements of leaders is to acknowledge that you give the police the tools to deal with any crime that is committed. If it is the politics then you can say differently, but the police made a finding, you do not agree with the finding, but it cannot be your remit to question the police finding in that regard. That is my position on that.

Madam Speaker, it is also clear that there is need for us to ensure that campaign finance reform comes to us before the next general election. Since 2006 I moved a Private Member's Motion, subsequently Deosaran moved a Motion, subsequently Helen Drayton, former Senators, moved Motions similar. You were acting on it. That is your role; that is your role of the Executive. But what the real test of your mettle will be whether or not you are willing to get that passed before you call a general elections in 2020.

So, Madam Speaker, it is clear that there is a focus on the EBC that institutionally now we have seen in our Caribbean neighbour that there is an egregious insult to the will of the people in Guyana. And the Prime Minister has spoken out on it, but there is also the need of Caricom looking at that matter.

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

**Madam Speaker:** So, Member for Chaguanas West, you had a lot of latitude with respect to the debate. I will ask you now to, please, in your few minutes left just address what is before us in the Motion, please.

**Mr. G. Singh:** Madam Speaker, I thank you. The bedrock of the whole structure of the will of the people is based on a fair and transparent credible, election results. And therefore it is our role as all parliamentarians to look at the EBC because it is

Mr. Singh (cont'd)

through their process, through the ballot box we are here today and we hope that that fair and credible process will continue, but we keep in mind, eternal vigilance is the price of liberty. I thank you, Madam Speaker. [*Desk thumping*]

**Madam Speaker:** Member, you are reminded that the speaking time is 20 minutes.

**Ms. Ramona Ramdial** (*Couva North*): Thank you, Madam Speaker, for the opportunity to contribute on this EBC Order. First of all, Madam Speaker, let me take the opportunity to respond to the Prime Minister as he is the one who piloted and started the debate on this EBC Order here today. And I am clearly convinced that the Prime Minister may just as well have the date of the 2020 general election in his back pocket. And I say that, Madam Speaker, because earlier on in a Prime Minister's Statement, the Prime Minister came with the campaign finance reform Bill and of course again came to tout that it was being laid and its journey would go to a JSC, not giving a definite timeline of course with respect to when it would come back here and be voted on and be made law. And clearly that is an indication that the PNM is in high gear for a general election 2020.

Madam Speaker, let me also say that during this COVID 19 lockdown it is very strange, as my colleague, the Member for Parliament for Chaguanas West stated, very strange during this period of lockdown where the future is not known in certain quarters with respect to the lifting of the lockdown in Trinidad and Tobago, and I want to predict that probably by this weekend the Prime Minister would make an announcement as to when he is going to be lifting that lockdown and hence—

**Madam Speaker:** So, Member for Couva North, if you can now get on to the substance—

**M.s R. Ramdial:** Sure, Madam Speaker.

**Madam Speaker:**—for this Order, please.

**Ms. R. Ramdial:** Thank you, Madam Speaker. So I think I have made my point there with respect to the campaigning of the PNM and going into high gear for the general election of 2020 with bringing this EBC Order here today in the Parliament. Now, the Prime Minister also identified the changes that this Order is bringing here today, and I just want to go back a little bit to remind the House and the public that it is the alteration of the boundaries in 12 constituencies in the electoral area of Trinidad.

And in my constituency, in the constituency of Couva North, polling divisions 3151 and 3152 will now be sent to the constituency of Couva South. It has been shifted to Couva South.

**3.20 p.m.**

Now respectively, polling division 3151 has 463 eligible voters and polling division 3152 has 358 eligible voters. So the polling divisions for Couva North have now been decreased by two. It was 39, it is now 37, and the constituency of Couva South will now have 43, if I am not mistaken, polling divisions. The electorate in total at the permissible limit is 30,366, which according to the EBC is above the permissible limit, and therefore, it is the reason why these two polling divisions from Couva North were shifted to Couva South. And Couva South, their limit or their total population is 30,074, where according to the EBC it is of permissible levels and we have those changes. So for my constituents, polling division 3151 includes the Point Lisas Gardens area, Lisas Boulevard, Flamingo Avenue, Susan Street, Parrot Avenue, Nancy Street and Pamela Street, and that is for polling division 3151. For polling division 3152, the streets that have now gone across to Couva South it is Jade Court, Olivieri Street, Flamingo Avenue, Ursula Street, Rosalind Street and Caroni Avenue. So these are the streets within

these respective PDs that have now moved across to Couva South and, that is, by and large the Point Lisas Gardens area. So we have lost two polling divisions, but Couva South has gained and we are okay with that.

Other constituencies I just want to highlight is that of Cumuto/Manzanilla, and it is the transfer of polling divisions 2245, 2246, 2252 from Toco/Sangre Grande that has now gone to Cumuto/Manzanilla. We have changes in Laventille East/Morvant to Laventille West, Laventille West to Port of Spain North/St. Ann's West. In Oropouche East we have a polling division 3795 that has gone across to Oropouche West, and in Oropouche West due to that transfer you have an increase in its voting population. Other boundary changes, in San Fernando East you have changes also to the polling divisions 4190 and 4195 that has moved across from that constituency to the constituency of San Fernando West. So the AG has some extra work to do in there. In Toco/Sangre Grande due to the transfer of the polling divisions, of course, we have an increase in the voting population now in Cumuto/Manzanilla which is all, of course, according to the EBC not above the permissible limit.

So, Madam Speaker, it is again, as I reiterate 12 constituencies with boundary changes for the general election of 2020. Now, in addition to that, Madam Speaker, I just want to also touch on the issue of the challenges with the EBC over the years and some of the points that my colleague before, Member of Parliament for Chaguanas West, raised with respect to the flexibility, and the 20 per cent that we tolerate that needs to be looked at. Some of the challenges that we have identified and, of course it is recorded out there in the public domain—and I want to make reference to an April 2019 article in the *Guardian* where the EBC admitted to the election law being outdated and agreed that there should be amendments to the Representation of the People Act, or ROPA as we know it.

And in an interview with the then UNC Sen. Ramdeen, the EBC admitted that some of the laws governing election machinery in T&T are quite outdated and it came up under the issue of voting by citizens overseas.

The Representation of the People Act needs amending, and a number of amendments need to be done to give the EBC the power and to organize elections in a way that those not entitled will be debarred. In that article and I quote, the Opposition Leader also, the hon. Kamla Persad-Bissessar, recently raised concern about them, the EBC operations and reports of a Venezuelan national holding a TT ID card. So all of these issues, Madam Speaker, were taken to the EBC, and I want to make reference to a team that went across from our end here to the EBC and met with them on the 14<sup>th</sup> of February, 2019, and some of the issues discussed are as follows:—*[Interruption]*

**Madam Speaker:** So hon. Member, in terms of this, again, I want to caution you with respect to Standing Order 48(1), and whether what it is that you are about to embark on has anything at all to do with the Order.

**Ms. R. Ramdial:** Yes, Madam Speaker.

**Madam Speaker:** So I will give you a little leeway, but I will just caution you.

**Ms. R. Ramdial:** Sure. And, Madam Speaker, yes, I want to assure you that it does have to do with this EBC Order and I will highlight the issues discussed. The status of the Parliamentary Boundary Report 2019, I understand that that report was laid. We had made a request to the EBC for it to be done and the assurance was given and it is here for all, and it is privy to the public. The 2017 Local Government Boundary Report, however, they have a leeway of five years in which to—*[Interruption]*

**Madam Speaker:** And therefore, again, I stand up on relevance to what is before us to ask. So I will ask you please to move on and tie what you have to say to what

is before us.

**Ms. R. Ramdial:** Thank you, Madam Speaker. Madam Speaker, in addition to that, as I made reference earlier to the amendments that the EBC admitted that were needed to make the election process a little more efficient, they also indicated that they made that request to the Government and we are yet to see any sort of action being taken with respect to that. Because this EBC Order is dealing with the upcoming election, how many persons and where they are going to be voting, and in which constituency they fall.

Madam Speaker, there are other issues also and my colleague from Chaguanas West made reference to it also with respect to, again, that issue of the validity and the accuracy of the demographics of Trinidad and Tobago with respect to the EBC and its work on the field, and I want to make reference, of course, to that of registration of persons with the EBC and all stakeholders being informed about that registration of persons with the EBC. The Prime Minister today came to Parliament in a Prime Minister Statement to talk about campaign finance reform, and for the longest while this Parliament has been—[*Interruption*]

**Madam Speaker:** Member, that point has already been made by your colleague who preceded you. Please move on.

**Ms. R. Ramdial:** Okay, Madam Speaker. I just want to flag that it is very important and we wait to see how this unfolds.

**Madam Speaker:** Move on please.

**Ms. R. Ramdial:** Yes, Madam Speaker. Another issue with the EBC that needs to be addressed is the house survey. The last house survey was done in 2001, and a national field verification exercise was supposed to be done in 2018 but that too did not materialize.

Now, Madam Speaker, if this house survey was undertaken by the EBC we

would have had more accurate data on this Order as we speak. So therefore, I want to urge the Government to fund or to send funding to the EBC that is necessary to undertake this house survey. I know it cannot be done in an election year, but hopefully with a new Government in 2020 it will be done. Madam Speaker, special ID cards for non-nationals, this has also been—and with the Order in front of me we need to clarify and to put to rest—[*Interruption*]

**Madam Speaker:** Member, I rule that out of order under Standing Order 48(1).

**Ms. R. Ramdial:** Okay, Madam Speaker. So, Madam Speaker, another issue with the EBC that needs to be, of course, flagged is that of the training for polling agents for the general election of 2020. Whilst we have changes here with the EBC Order for the 12 constituencies—[*Interruption*]

**Madam Speaker:** Hon. Member, training for the staff, I am not allowing that under that under this.

**Dr. Khan:** Can I ask the question, Standing Order 2(1) indicates that:

“The Speaker is responsible for ruling whenever any question arises as to the interpretation or application of a Standing Order and for deciding cases not otherwise provided for.”

The Member is basically quoting from the EBC Report and I was just wondering if Standing Order (1) is being contravened?

**Madam Speaker:** Member, I have ruled that in terms of dealing with training, I am not allowing that under the debate with respect to this report.

**Ms. R. Ramdial:** So, Madam Speaker, the Prime Minister also in his presentation flagged the issue over the past couple of months where—I think he was referring to the Opposition—he spoke about the sizes of the constituency and one area being densely populated as opposed to another area being sparsely populated, and I do not want the Prime Minister to ignore that particular issue because it is real and as

much as he advocated or the science and the formula behind how the EBC comes up with its number and how it shifts boundaries, I also want him to know that the issues that we have raised with respect to more, you know, the smaller constituencies having an unfair advantage as opposed to the larger constituencies, and when you look at the local government bodies, and the corporations, and the financing and the funding that they are given for a certain number of citizens or constituents living in that area, it is an issue that must be addressed. Madam Speaker, how many more minutes I have?

**Madam Speaker:** Member, you have six more minutes.

**Ms. R. Ramdial:** Six minutes. Okay, Madam Speaker. So many of the issues that I wanted to raise here today have been ruled out, but it does deal with the EBC and this particular Order with respect to preparing for the general election of 2020. However, Madam Speaker, I want to remind the House that there have been many battles in the past and probably ongoing as we speak with respect to the EBC and the operations of the relationship between Government, the EBC, and the public, and I want to just refer to the 2007 general election where we had an increase in the constituencies under the former Prime Minister Patrick Manning from 36 to 41, where it is that the lessons learnt from 2002 was to avoid a tie in future general elections. And so, those changes were made in 2007 for that particular election.

So, Madam Speaker, as I wind up—[*Interruption*]

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

**Madam Speaker:** So Member for Couva North, I heard as you say the wind up, so I am hoping that you will be guided and that I would not have to stand up again to remind you about Standing Order 48(1).

**Ms. R. Ramdial:** Yes. Sure, Madam Speaker. So as I wind up, Madam Speaker, let me just say that this Government and this PNM Prime Minister fools no one.

We are here today for the purpose of calling a general election in the near future, and therefore, Madam Speaker—[*Interruption*]

**Mr. Deyalsingh:** Madam Speaker, Standing Order 48(1), please.

**Ms. R. Ramdial:**—we wait with bated breath. Thank you, Madam Speaker.  
[*Desk thumping*]

**The Prime Minister and Minister of Planning and Development (Hon. Dr. Keith Rowley):** Madam Speaker, I want just to respond a few of the enthralling points made by my colleagues on the other side. This debate or any debate involving the Elections and Boundaries Commission is destined to be an interesting debate because it is a subject that is always at the forefront of the imagination and trust of the people of Trinidad and Tobago, and in all countries as a matter of fact, but I was very interested in the opening gambit of my colleague from Chaguanas West. I know that he is a little estranged from the madding crowd on the other side, but I was wondering whether when he spoke if he was speaking for himself or whether he represented the party on the other side. I will meet him behind the Chair to get an answer to that, but I must raise the question because he did begin his contribution my raising the unasked question about whether in fact we can conduct an election in this COVID time with the COVID issues.

Clearly, Madam Speaker, that is not the position of the Leader of the Opposition who only yesterday, as she claimed vindication with respect to the police reporting on their stumbling blocks with respect to Cambridge Analytica, ended her appeal of vindication by calling for the election now. I would entreat my colleague on the other side to pay more attention to his erstwhile Leader lest he be seen to be on the wrong side of the seesaw. Because, Madam Speaker, if you are on the wrong side of the seesaw and you are not paying attention it can be made to rise and hit you very hard in the tender place. So, Madam Speaker, I do

not know what the Opposition's position is with respect to whether or not we can have elections. But I am saying to this country now, that as of today, we have taken no decision, no consideration, as to postponement of any election in Trinidad and Tobago because an election for Christmas is always a good thing in Trinidad and Tobago. So we have ample time, but I was really intrigued by that intervention.

He also spoke about the matter of the EBC being found to have broken the law with respect to the granting of additional time during the reins of the 2015 election. Again, that is a matter which requires some element of leadership, because what happened there was that the UNC went to court asking the court to annul the results in a number of constituencies—I think it was five constituencies?

**Mr. Al-Rawi:** Yes.

**Hon. Dr. K. Rowley:**—because the EBC allowed on an election day an extension of the voting time so as to allow persons to vote, and he mentioned that this is a stain on the EBC.

But I thought, Madam Speaker, that every citizen in Trinidad and Tobago would take that into the context of what normally happens with elections where bad things are required to happen on the part of some people, is that they prevent people from voting. That is where we should be really concerned, people are prevented from voting. And the spirit and the letter of the EBC's action is then the EBC Act, because if you turn up in the polling station after six o'clock, if you turn up in the polling station and you are in a long line, they do not close the ballot boxes at six o'clock. They allow you to vote. If a thousand people are in the yard in a line, you are allowed to vote until whatever time the last person has voted, meaning that the spirit of the EBC's existence is to facilitate voting, not to stop it.  
*[Desk thumping]*

What the UNC should learn from this is not that the EBC was wrong, is that when you are going to court you must go with clean hands [*Desk thumping*] because the EBC did not give extra time in those five constituencies won by the PNM. They gave extra time in Trinidad. As a matter of the fact, Madam Speaker, I only noticed that that time was given when I read it off a UNC instruction to their supporters on election day. They were the first ones to praise it and to take advantage of it, but interestingly enough, Madam Speaker, having not gone to court with clean hands I have no doubt that the state of their hands would have influenced the outcome of that case because Barataria/San Juan was won by 500 votes. They were quite happy to accept that as a victory, but San Fernando West won by 3,000 votes they went to ask the court to annul it. But all I will say today, notwithstanding the fact that he has raised it without the permission of his Leader, you owe the PNM a number of millions of dollars for losing that case. Pay it! [*Desk thumping*] Because we intend to collect it from every single one of them, Madam Speaker. They took the party to court, they incurred huge expenses, they claimed victory along the way, they asked the court the cost of millions of dollars, they lost an appeal, and they now owe the money. So instead of coming here now to raise that to put a black eye on the EBC, pay the money for the case that you have lost. [*Desk thumping*]

My colleague also raised the matter of Guyana. I simply want to say that none of us in this Government or any PNM has invested in any way in Guyana. We have no horse in Guyana, except that we want the best for the people of Guyana, and we want to see them solve their problems as quickly as possible so that the results of an election could be concluded and that Guyana could continue to maintain its high standing in Caricom. He raised the question to me about why the Trinidad and Tobago's rep, who was the Chief Elections Officer, not back in

Guyana? Madam Speaker, I took the position that Trinidad and Tobago had made its position very clear. There was an observer mission in Guyana from Caricom. That mission observed the election. The election took place; that mission left before the results were concluded as they still are. Had the mission stayed that they would have been there all now, the observer mission of Caricom. However, subsequent to that, when the difficulties began to appear, a delegation of leaders of Caricom visited Guyana—I was among that mission—and we met with all the political parties in Guyana, and we thought that we had somehow brought some positive movements. And the leadership in Guyana, the Opposition and Government, invited Caricom back to send not an observer mission, to send a group of scrutineers to observe the Guyanese count their ballots.

It was in that context that our Chief Elections Officer was identified as the person from Trinidad and Tobago to be part of that mission. Having arrived in Guyana that agreement did not pan out. It ended up in the court, and there were very serious accusations made against Caricom and it was my view, and the view of this Government, that that being the outcome of that altruistic approach that the Chief Elections Officer of Trinidad and Tobago ought not to be in that situation at any time to be accused in that way in a Caricom country. So we did not send back our Election Officer there because we want to preserve our pristine position in these matters of the conduct of free and fair elections. But there is a Caricom team there and we are anxiously awaiting a positive outturn, meaning a conclusion to an election in Guyana.

Madam Speaker, my colleague from Chaguanas West has a way of treading some unbeaten paths. Today he treads another one in his exuberance, and I would say unrestrained by a present leader. He basically asked me, and the rest of the country, and the rest of the world not to question the police, and if the police say so

is so. Well you keep that for yourself. Madam Speaker, just to make it very clear the comment that he raised into the debate here today about questioning the police, we now know his position, do not question the police, but the basis on which he raised it is a comment that I made on my Facebook page. Let me say very clearly, go back and read the comment, it was not made to the police. It was made to the UNC as a political party [*Desk thumping*] who took the position—even before I saw what the police had said, I saw the UNC saying that the whole question of Cambridge Analytica and Trinidad and Tobago was a hoax and it was fabricated by the Attorney General and the Prime Minister who looked at a movie on Netflix. That was the UNC trying to give the impression that Cambridge Analytica never occurred and happened in Trinidad and Tobago. They never worked in Trinidad and Tobago. They want to rewrite our history.

So you read my comment as a comment to that UNC trying to rewrite our history and had nothing to do with anything the Commissioner of Police said. And having said that I as a citizen I will be very careful as Prime Minister if I have to criticize the police, but as a citizen I will criticize the police if I have to. So to tell me that if the police say so is so. Let me ask you a question, Madam Speaker. You must have heard the DPP telling this country in the Jack Warner money matter, which is on YouTube—[*Interruption*]

**Dr. Khan:** 48(1), Madam Speaker.

**Hon. Dr. K. Rowley:** Madam Speaker, I am responding to the debate as opened by my colleague from Chaguanas West.

**Madam Speaker:** Prime Minister.

**Dr. Khan:** 48(1), Madam Speaker.

**Madam Speaker:** Overruled. Prime Minister, continue.

**Hon. Dr. K. Rowley:** Thank you very much, Madam Speaker. To tell me that I

must not question the police in this context because you are implying that it was political response to the police, not at all, not at all. Not at all because—I will give you one example.

The DPP gave an instruction to the police to look at the CONCACAF money matter in Port of Spain which is on YouTube—money in a briefcase given out at the Hyatt in Trinidad—and when the police took that to the DPP in furtherance of prosecution, the DPP got what he called a threadbare file and he asked them to look at the action that happened there under the Customs Act. I want to ask my colleague from Chaguanas today, have you ever heard anything about that? Was there any response to that from the police, an instruction from the DPP to examine the conduct of officials under the Customs Act to see whether money was illegally brought into this country and engaged in legalities? And you are telling me today that I must never question the police. If the police say so is so. I wish you tell that to all the defence lawyers in this country who go to the court to defend people in the criminal arena, who make a living questioning the police.

Anyway, Madam Speaker, I move on. I was very surprised to hear my colleague from Couva North I think it was, or was it my colleague from Chaguanas East, one of them speak about the fact that the Government has asked that this Bill go to a joint select committee is something unusual. Madam Speaker, if my memory serves me right, virtually every Bill we have brought to this Parliament got a response from the Opposition, send it to a committee, send it to a joint select committee, and many times we did not do that because—but their demand was they want it in committee, joint select committee. If there is any Bill that requires to go to a joint select committee to get the public to have its say on it, it is this Bill. Because this is a Bill that really is breaking new ground because there are some introductions in there, and I suspect that there are strong public views in there, as

to whether in fact we should do the things that the Bill says we should do. For example, I know there will be people in this country saying that there should be public money paying for elections. Never mind that elections create the country's management, some people think it should be by magic. So let the people say what they have to say. You do not have to spend the whole year doing that.

And I will tell my friend from Couva North, from the day I was sworn in as Prime Minister I had the election date in my back pocket because only the Prime Minister can call elections in this country. So you made a great discovery today, an epiphany. You have made a great discovery today that the election date is in the Prime Minister's pocket. That was there ever since I was sworn in. The question is: tell me what you all want? In the one breath the Leader wants the election now because she wants to get back into office now because she thinks the country is crazy. You do not want the election because you think I am doing something funny to call the election with your colleague from the other House using COVID for elections. The election will be called when the election is due. [*Desk thumping*]

And let me finally, Madam Speaker, just talk about this size of constituencies. We have changed our Standing Orders in this House and we are operating the Parliament in a series of committees, which I support, for the purpose of greater monitoring and examination of the country.

**3.50 p.m.**

We have a Parliament of a certain size and a number of parliamentary sessions and so on, and we have found a certain amount of inadequacy with respect to the monitoring of the budget which is now in the order of 50-odd billion dollars. It requires greater management and oversight. And I need not tell you about the

reports that come here that never see the light of day because there is just not enough time to look at them or enough people to look at them.

What I thought my colleague was going to say when she mentioned the number of seats, not that you have 41 seats so you would not have a tie, but whether in fact we should have more seats in the Parliament so we that you can have one, better servicing at constituency level; and, two, more people to manage the country's monitoring and examining the Government's operations. That is just something that needs to be discussed. And of course, in terms of size of constituency the case had been made—when Tobago had one seat, the case was made that because of the peculiar nature of Tobago in Trinidad and Tobago being an island, small island, disconnected and so on, as it—much more than it is now, that for Tobago to have its real place, there should be two Tobago seats.

There are some people who believe that Tobago should have three seats to have a fair enough size of Tobago in the Parliament and not be confined by two seats because of the mathematics of the equation that you disparage. But the case that was made for Tobago, I suspect that a similar case can be made for one or two other areas in the country, the rural areas. The east coast, we talk about the eastern seaboard, where constituencies are a quarter of the country.

But that would not be done in the context of Trinidad and Tobago. The country is Trinidad and Tobago not Trinidad and Mayaro. That took place in this Parliament before. But it is a conversation that needs to be had and maybe today is not the day but let us not close ourselves off to the realities of that. Being the MP from Kernahan to Guayaguayare is not really the best thing for the people who live in that area and therefore, we need to be more imaginative as we go forward rather than more stick in the mud as some of the comments we heard coming from the other side.

But, Madam Speaker, I thank them for their contribution and I look forward to their vote in accepting the recommendations of the Elections and Boundaries Commission, an institution of which we are all very proud, and Madam Speaker, on that basis I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Draft Order entitled “the Elections and Boundaries Commission Order, 2020” be approved.

### **REAL ESTATE AGENTS BILL, 2020**

[Second Day]

*Order read for resuming adjourned debate on question [March 13, 2020]:*

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Fazal Karim:** (*Chaguanas East*): Thank you very much, Madam Speaker, for allowing me to contribute to the Bill entitled:

“An Act to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession, to protect and assist persons engaged in transactions with real estate agents and to assist in the detection and prevention of money laundering and terrorist financing, and other related matters”

Madam Speaker, essentially what this is telling us is that it has to do with registration and regulation of real estate agents and also the operatives. In other words, this sector is clearly not registered and unregulated.

Madam Speaker, when the Bill was presented to us by the hon. Attorney General, he gave us some reasons for laying this piece of legislation, which has 83 clauses. He indicated that this is serious business in terms of managing the

Mr. Karim

approach to crime, to better the public interests, mandates membership on a compulsory basis to an enterprise such as an association of Real Estate Agents Association, called REAA and as I indicated, one of the rationale for it is that it was unregulated. He also indicated that this aspect of business in Trinidad and Tobago, the real estate agents and their business offices, contribute about \$3.2 billion a year in land activities to the GDP. One of the entities that has been involved in this aspect of business for many years is AREA, the Association of Real Estate Agents, that lists 78 brokers, 112 sales agents, 17 corporate members, in other words about 200 persons.

Madam Speaker, I think it is important before I get into the substance, though I have a short time to say what I have to say, that we give a historical background very briefly of the real estate sector in Trinidad and Tobago. And it is very clear that the real estate sector plays a pivotal role in the economy of Trinidad and Tobago and has been seen as the preferred means of investment, wealth building with better returns and inflation resistance that exceeds those achieved with traditional bank deposit accounts.

Madam Speaker, when you look at the trajectory of the real estate sector, one would notice that from 1991 to 2006, this industry experienced boom conditions. However, Madam Speaker, in spite of some of the good things that we have seen with this sector, there were some concerns that were expressed and when we look at the articles in the newspapers, reference is made to some of the following. There is an article saying:

“Criminals using real estate for money laundering”

Another one says:

“Fraudulent real estate agents on the prowl”

And that is the *Guardian* of Wednesday, March 11, 2020. A third one saying:

“Lawsuit: 68 fooled into buying Cedros land without deeds”

That was mentioned in the *Daily Express* of January the 11<sup>th</sup> 2019.

“Real estate fraud”—they indicate, has been increasing in costs.

The FIU (Financial Intelligence Unit) reports have shown that there have been significant suspicious activities within the real estate sector. And when one looks at the period of 2014 to 2019, indeed some real estate agents have been maligned for the handling of property matters, and therefore in accordance with clause 27 we must ensure that all registered members of this association possess the qualities of integrity, trustworthiness, capability, competence and honesty.

Madam Speaker, it is on that basis that we require a certain level of training and education. As mentioned by the hon. Attorney General, and to which we can all agree, this is, as was repeated before, an unregulated industry, and as we seek to implement proper legislation, there are certain key areas I would like to pay particular attention to; as we have been told before it is to bring order and control to the real estate business.

Madam Speaker, having said what I have said and noted some of the unfortunate circumstances in this sector, I want to focus to some extent on the quality of persons involved in the real estate agency and industry. You may have various committees as we see from this 83-clause Bill. You may have different boards, you may have standards, you may have codes of ethics, but Madam Speaker, fundamentally, what drives the integrity of an organization is the quality of the personnel.

Since, as the hon. Attorney General said, this is serious business, we must be serious about the quality of persons who we are expected to be registered and licensed to protect, as it were, the public interests and who will practise as associates, agents and brokers and developers.

Madam Speaker, I want to move on to Part VI, the licensing of brokers, clause 40, page 16 of the Bill. And one of the things it speaks about is that the licensing committee:

“...may issue a licence where the Committee is satisfied that the applicant—  
(a)—as—“in the case of an individual—  
is a sales associate;  
is a person of good character;”

And, Madam Speaker, I am hoping that this good character here means that this person must provide evidence of good character by obtaining a police Certificate of Character, which will be evidence.

I do not think it is sufficient for us to expect that “good character” means that you will get a recommendation from a principal, or from a priest, or even from a politician but there must be evidence of that good character. That is a:

“fit and proper person to engage in the business of a broker;  
has satisfactorily completed such training in real estate business with an institution accredited by the Accreditation Council or such course in real estate business recognised by the Accreditation Council, as the Committee may approve;”

It goes on, Madam Speaker, in part (v) to say:

“has successfully completed such additional training with an institution accredited by the Accreditation Council or such additional courses recognised by the Accreditation Council, as the Minister may approve, after consultation with the Association and the Committee; and  
has a policy of professional indemnity insurance for the prescribed amount;”

Madam Speaker, in saying this one of the things I want to indicate is that I have met with stakeholders in this sector and some of the things that they are concerned

about is that they have persons who are agents, real estate agents and brokers, and who have been practising for the last 10 or 20 or 30 years.

And since the Accreditation Council is mentioned here, I want to suggest for the consideration of the hon. Attorney General that we must be able to consider rather than to put these people through a programme of study for 18 months, as has been done in the case of Roytec, which was one of the early institutions. I want to ask the hon. Attorney General to consider a modality of assessment, which is called "PLAR". That means Prior Learning Assessment and Recognition or sometimes referred to as "APL", Accreditation of Prior Learning.

What that means is that whatever you would have learnt in practice or informally can be assessed. The Bill talks about developing standards of performance. And if these standards are developed, they can be assessed against these standards and in some cases you may be able to get credit, so abbreviates or shortens while not compromising the quality of the training and certification.

I also want to suggest for the consideration of my friend the Attorney General, that there is something called the mutual recognition of transnational programmes, whether it was in Caricom or extra Caricom, so that if you do programmes in any part of the world and we have agreements with the relevant accreditation bodies, that that body will be able to accept our qualification and similarly we will be able to accept their qualification.

Madam Speaker, I want to also say in support of that, I would have done a study in terms of comparing Trinidad and Tobago, Singapore, Jamaica and Canada. And I just want to indicate in support of what I am saying, that the executive director in the Canadian context may grant an exemption from any or all of the educational examinations or other requirements prescribed, approved or adopted by counsel for real estate or mortgage brokers referred to in (1) above, to

an applicant who satisfies the executive director that the applicant—and this is the key here which the Attorney General is what I am alluding to—has satisfactory expertise and experience and knowledge of current real estate or mortgage broker practices in the case of Canada.

Madam Speaker, this is one of the things that the persons who I met with, indicated that they would like me to present on their behalf so that they will be able to expedite their registration and licensing.

I also want to suggest to the hon. Attorney General that he may be able to see the real estate industry, how it is continuously evolving, and real estate agents need to be trained to upgrade their skills and enhance their competencies.

Very often we hear about developers as well. And when you have a concern about a certain development that is taking place and you are looking for that developer, you cannot find them or you do not get the kind of redress. And in that context, I want to recommend the hon. Attorney General to also take a look at the University Of British Columbia Sauder School of Business of Canada, which is referenced here. And in that regard, we will be able to look at the—for the benefit of building the capacity of the human resource for performance and efficiency, and effectiveness and efficacy, by looking at some of the programmes and the courses. For example, there is a course in law on ethical considerations in real estate business, just to mention one of those.

Madam Speaker, in that regard, I want to suggest for the consideration of the hon. Attorney General that while he will have a licensing committee, while he may have a disciplinary committee, because of the critical importance of building the capacity, building the integrity, making sure persons are competent, that a new committee should be established to ensure continuous education and professional

development. There ought, in my view, to be an education and certification committee, not only a licensing and disciplinary committee.

Madam Speaker, one of the reasons I am saying this as well is that there are many times when the real estate agents or the brokers may attend professional development seminars, one day or two days or three days. And I want to ask the hon. Attorney General as well, when he is talking to those who will be in charge of the organization, the board, that consideration should be given to accredit the performance of those agents and those brokers when they attend professional development for the benefit of the organization. So that if you went to our three-day symposium, you will be able to get credit for that, that will be counted towards your experience.

Madam Speaker, I did mention that I made contact with two organizations, stakeholders in the field of real estate, and one of the things that they asked me to convey to the hon. Attorney General is the increased amount of consultation that they would like to see. What they indicated is that an area which was the major player in the real estate sector had about 200 persons in their membership, but there were approximately—and the hon. Attorney General, I listened to him and I read his *Hansard* report, indicated there were about 700 persons who are actively in the membership. And therefore, I am sure that if he has not met with them, he will meet with them to have a wider consultation with respect to the formation of different aspects of this Bill.

Madam Speaker, one of the things that they also mentioned, and they had asked, is that they did not consider—of course I am just indicating what they said to me—that they were asking for a postponement of this Bill because there was some other work to be done. And they were saying that in the context of COVID

19 that maybe this may not have been looked at, a very urgent matter, but of course that is just an indication of what I was saying about their enthusiasm to it.

Madam Speaker, one of the things I wanted to also mention is that an application for registration—and this goes to clause 8, I am making reference to clause 8(2)—an application for registration under subsection 9(1) shall be made:

“...on the prescribed form and submitted to the Registrar General”—  
together with—“a completed AML/CFT/PF3 risk assessment questionnaire and the prescribed fee.”

**4.10 p.m.**

Madam Speaker, the issue is, as it is, the requirements are too basic. That is what they are indicating. And the recommendation is that in addition, what is required and what has been filled out in the questionnaire, that there should be additional background checks, which I am sure will be expected to be done since real estate business involves large monetary transactions, and what the hon. Attorney General indicated was something that was being closely monitored and looked at in terms of the avoidance of crime.

[MR. DEPUTY SPEAKER *in the Chair*]

Madam Speaker—“ah” sorry, Mr. Deputy Speaker, I want to now make reference to the licensing committee and disciplinary committee which is mentioned in clause 30(2), Part V, and I am just reading some of the comments that I was—okay, at this time, they indicated that it was a little bit too overweight with attorneys. Mr. Deputy Speaker, as I conclude, I know there are a number of things I would have liked to say but I just want to conclude by saying, the Real Estate Agents Bill, 2020, has found itself debated in the middle of COVID 19. This pandemic has taken a heavy toll on our open national economy and indeed the global economy. This virus is a tough enemy, invisible but formidable.

I want to ask, as I end now—I had asked the hon. Attorney General to consider wider consultation to revisit, review, revise, restructure and rework parts of this important piece of legislation which would have far-reaching consequences for the conduct of real estate business in Trinidad and Tobago. I thank you, Mr. Deputy Speaker. [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for San Fernando East.

**The Minister of Tourism (Hon. Randall Mitchell):** Thank you very much, Mr. Deputy Speaker. Thank you for recognizing me and thank you for giving me the opportunity to contribute to this Bill, an Act to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession, to protect and assist persons engaged in transactions with real estate agents and to assist in the detection and prevention of money laundering and terrorist financing and other related matters.

Mr. Deputy Speaker, debate on this Bill so far has not been adversarial in the usual sense as we see debates go in this House. In fact, there has been a meeting of the minds, and generally there has been support for this Bill and these measures proposed by this Government. And in that regard, I want to commend and congratulate those on this side who have spoken before, the hon. Attorney General for piloting these measures, the Member for Laventille West as well for giving a sterling contribution to these measures which are landmark and which are needed in the country at this time.

Mr. Deputy Speaker, the Member for Tabaquite spoke before me, and the Member for Tabaquite was very much in support of this Bill. He was very much in support of Government's policy to regulate, for the first time, the real estate sector. And the Member, like many others in this House, has an interest in real estate, and we welcome his support, because he understands the importance and the urgency

to change the way we treat—we do business in the real estate industry. And, Mr. Deputy Speaker, the Member for Chaguanas East as well, spoke in support. Giving recommendations, he spoke about continuing professional development, which is an area that I am sure that the real estate associations, they are— very proactively will pursue— AREA, which is the body that presently self-regulates the real estate sector, has been very proactive. The Member also spoke about background checks and ensuring that there are significant background checks, and I would remind the Member that prior—in fact, what obtains now is that there are no background checks. The Bill, as presently constructed, allows for a process of registration and a process for background checks for all those who wish to be recognized as real estate agents, that is to say, sales associates and brokers.

The Member for Caroni Central, Mr. Deputy Speaker, also spoke largely in support of the Bill, but he spent a lot of time on Part V of the Bill, criticizing the method of appointment for members—for the appointment of members of the licensing committee. And, Mr. Deputy Speaker, permit me to deal with that first. The Member tried to persuade the Members of this House that the appointment of the licensing committee by Cabinet rendered the committee somehow beholden and biased towards the Executive and therefore, not independent.

Mr. Deputy Speaker, the licensing committee is an independent committee and does an important function in the Bill, that is to say, the licensing committee is charged with the function to issue, renew and cancel licences to real estate brokers, and that can be found in clause 32. But, Mr. Deputy Speaker, in understanding the independence of this committee, and it has to be independent, one has to look at clause 30 of the Bill, which is Part V of the Bill. And in clause 30(2) of the Bill it says:

“The President shall appoint a committee comprising seven members as

follows:”

Now it is recognized that “President” here means Cabinet, as per section 80 of the Constitution. Well, the first three of the members will be appointed on the advice of the Judicial and Legal Service Commission. In (d):

“a person with experience in accounting, business or finance, nominated by the Minister;”

In (e):

“two persons...having at least five years’ experience in real estate business nominated by the Minister;”

And in (f):

“a representative of the Tobago House of Assembly, nominated by the Chief Secretary of the Tobago House of Assembly.”

So, Mr. Deputy Speaker, one has to now look at the how the Judicial and Legal Service Commission is appointed, and the members are appointed— it could be found in section 110 of the Constitution. And members of the Judicial and Legal Service Commission are appointed by the President in consultation with the Prime Minister and the Leader of the Opposition. And those are three members of a seven-member committee and one member by the Tobago House of Assembly. So, Mr. Deputy Speaker, just in the composition alone one can see that the real estate licensing committee is independent but in the Bill, we go further. In clause 32(2) it says:

“In the performance of its functions, the Committee shall not be subject to the control or direction of any person.”

And that is contrary to some of the clauses— the provisions that we find in other Bills that speak to the creation of body’s corporate and state enterprises, et cetera, that says that the functions of those boards are subject to the direction of a

Minister. So, Mr. Deputy Speaker, just to debunk what the Member for Caroni Central was trying to argue, the real estate licensing committee is independent and so too, the disciplinary committee, which is found in Part IX and in clause 55(2):

“In the performance its functions, the Disciplinary Committee shall not be subject to the control or direction of any person.”

It said so specifically.

So, Mr. Deputy Speaker, these two committees, in contradiction to what the Member for Caroni Central was trying to argue, these committees are indeed independent. So, Mr. Deputy Speaker, why this Bill? This Bill signals a change in policy. And it is a change in policy from the self-regulated system to one that can be described as co-regulatory. So, Mr. Deputy Speaker, the Association of Real Estate Agents, otherwise known as AREA, been around since 1990, and that association was established to promote the profession of real estate agents and to promote fair standards for all of its stakeholders. In 2012, it was incorporated under an Act of Parliament and has made significant headway in promoting the profession and the creation of standard rules of practice, and they can be commended for that. But the membership in AREA is voluntary and therefore, compliance with its standard codes of practice is also voluntary and not enforced through the command of law or sanction. And their inability, Mr. Deputy Speaker, to enforce or compel persons in the practice of real estate has left the industry virtually unregulated. Therefore, Mr. Deputy Speaker, self-regulation, the policy of self-regulation has failed and that failure has left certain adverse effects for the real estate industry.

So, Mr. Deputy Speaker, real estate, as we are all aware, provides many opportunities for money laundering through the acquisition, dealing and disposal of real estate. And it is therefore important that we regulate, register and filter out

persons who may wish to enter and engage in the business of real estate. The non-regulation also allows for anybody to claim that they are a real estate agent. The Member for Chaguanas East spoke about it. There are many persons and many examples around society of fraudsters entering into the land market advertising falsely and attempting to sell property, sometimes selling property twice and three times over to unsuspecting and desperate buyers.

In fact, Mr. Deputy Speaker, when I was Minister of Housing and Urban Development, and it was continued by the Member for Point Fortin, we embarked on a programme called Housing 101, which was a manual that we created and put forward to the population, educating the population about everything real estate, about real estate agents, about mortgages, et cetera, to educate the public and to provide some form of consumer protection, but that clearly is not enough. There is also the adverse effect of what is called “the dual agency.” Right now, in this unregulated industry, one agent usually finds himself representing both the seller and the buyer. That is how it works out in practice. However, both seller and buyer are unaware as to who the real estate agent actually owes a duty to. And this Bill, Mr. Deputy Speaker, clarifies that and ensures that the consumers, whether it be seller or whether it be buyer, truly understands the duty of the real estate agent. Because, Mr. Deputy Speaker, one would ask the question, where an agent is representing seller and the buyer, in whose interest is that agent actually working? Whether it is to get a large commission, so he is working in the seller’s interest or whether it is to move on quickly and therefore cause the seller to accept a lower price, and therefore, working in the interest of the buyer.

Mr. Deputy Speaker, there is also presently the absence of standardized escrow facilities and practices. Some agents received client moneys as stakeholder in a transaction and this money is deemed to be held in trust, and these moneys and

some agents sometimes end up in problems where the money is mixed with personal moneys, the agent goes bankrupt, or the agent gets into some sort of trouble and those moneys become— because it is in the agent personal account— they become subject to another claim, or someone else's claims. Mr. Deputy Speaker, in the absence of a regulated industry, there is also the increased risk and exposure to terrorist financiers. In a Bill previously I spoke about it, where some persons are recruited to go abroad and engage in terrorism, in terrorist fighting, their families are taken care of, housing is found for their families through real estate agents and that housing is paid for, whether it be by rent or by purchase. And therefore, Mr. Deputy Speaker, with real estate agents at the forefront of these transactions, they ought to be the first ones to pick up these types of illegal transactions. So, in light of these serious weaknesses, Mr. Deputy Speaker, we are moving towards a co-regulatory system. This is the reform. And this co-regulatory system, that is to say, it is still going to be largely self-regulated through the creation of the real estate association but also, a state regulator is going to be appointed, and that state regulator is the Registrar General. And this new regulatory system, Mr. Deputy Speaker, provides robust mechanisms to inspire consumer protector and confidence and to protect our financial system from the adverse effects of crime and money laundering.

So, Mr. Deputy Speaker, just turning to the Bill, the first clause that I would like to touch on is clause 4. The Act does not apply— so clause 4 states who the Act does not apply to. And the Act does not apply to, especially the State, agencies of the State, the LSA, the HDC, and even UDeCOTT in their property management activities, the Act does not apply to those persons, or to those agencies rather, or persons working in those agencies. In fact, Mr. Deputy Speaker, while as Minister of Housing and Urban Development, I had the task of

selling the Victoria Keyes apartments. And, if I would remind you the Victoria Keyes was a project that was taken totally out of control under the last Government where a \$200 billion project ballooned to \$600 million, and the Government decided to sell those properties on the open market. And there was a question, there was a question as to whether the HDC would be caught as a real estate business under the Proceeds of Crime Act and First Schedule, I think it is, speaks to the—what is a real estate business, and we had to write. We wrote to the FIU asking the question, whether or not the HDC was indeed caught under the Act? This clause 4, Mr. Deputy Speaker, makes it pellucidly clear that the HDC, the LSA, and other state agencies dealing in real estate business are not caught in the Act.

Mr. Deputy Speaker, in Part II, Part II specifies what is the practice of real estate business. What types of activities are caught and what is not, and I will go straight to clause 5(2)(d), and it is very important to state because I think it is question that most citizens—

**Mr. Deputy Speaker:** Minister, you have two more minutes.

**Hon. R. Mitchell:** Thank you—I think it is a question that a lot of citizens have at the forefront of their minds. The question of whether it is going to be mandatory to engage a real estate agent when one decides to deal in his own property? And, Mr. Deputy Speaker, just to quote:

“5 (2) Notwithstanding subsection (1), a person shall not be regarded as engaging in real estate business by reason only of the fact that—

(d) he deals with real property of which he is an owner or part owner;”

So that answers that question. Persons who are owners or part owners of real estate, wishing to become seller on their own behalf, they are not required to

register under the Act, and they are not required to engage a real estate agent.

Mr. Deputy Speaker, in this Bill, real estate agents are broken down into two, sales associates and brokers, and the difference between a sale associate and a broker. A broker has a fiduciary duty and enhanced and increased duties towards his clients, sales associates do not. Mr. Deputy Speaker, Part III deals with how real estate business registrants are registered, the application, qualification, disqualification, objections to registration, et cetera. Of course, with the limited time I cannot go through the entire Act, but suffice it to say, I am very proud of this Government, I am proud of the Attorney General, all of us in the LRC for bringing this Bill to regulate the real estate industry. I am happy to support it, and I am happy to ask for the Opposition's support in this Bill, and I thank you for the opportunity, Mr. Deputy Speaker. [*Desk thumping*]

**Mr. Deputy Speaker:** I recognize the Member for Mayaro.

**Mr. Rushton Paray** (*Mayaro*): Thank you very much, Mr. Deputy Speaker, for recognizing my request to join in this debate this evening. Mr. Deputy Speaker, taking into consideration the limited time that we have here in this new COVID 19 shape of our debates, I want to dive quickly into my contribution. My colleagues from Caroni Central, Tabaquite and today, Chaguanas East, must be commended for the contributions that they have made in such succinct manner in dealing with several of the clauses in the Bill.

Mr. Deputy Speaker, the purpose of the legislation is a very laudable one. I do not think there is anyone who cannot or will not support any legislation that provides for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession, especially in an area—part of the economy where it is riddled in cases of fraud, severe money laundering and in some cases, financing of terrorist activities. So, the Bill itself

seeks to provide governance and legislative control in a very important industry, and this industry contributes heavily to the GDP, it employs thousands of professionals, and obviously, Mr. Deputy Speaker, it operates in a very vital, social and economic sector. So, there can be no challenge to the purpose and the intent of the legislation. So while there is support on this side for a lot of the measures outlined, I can ask the hon. Attorney General to look at several areas, I know many of them, my colleagues previously would have alluded to in terms of amendments to strengthen the legislation and we do hope, if it is the Attorney General's intent to wrap the Bill up today, he would probably deal with some of those issues.

Mr. Deputy Speaker, this Bill is about real estate agents and it is very timely, because it is being debated at a time when there are several reports out there in the media about landlords who are kicking their tenants out because of the COVID 19 challenges. You have some homeowners because of the lockdown and perhaps prior to the lock-down, who were having difficulty in paying their mortgages and so on, many of them are ready to give up their keys to the banks and so on. So I think this legislation is very appropriate, it has come in the right time, and I do hope by the time the components of this Bill is put into effect, it can address some of these challenges. What I find happening today, Mr. Deputy Speaker, it reminds me of the late 1980s when you had severe tightening of the economy and several of the comments that you are getting on the ground concerning the ordinary man, the ordinary homeowner, is very similar to what existed back then. And I am hoping that the Attorney General in his winding up of the debate today can give a commitment on behalf of the Government to address some of these issues, because they are real issues, and I think it would be pertinent, it would be important for the Government to have some mechanisms to address some of these real issues with regard to homeowners and rentals, and so on.

Mr. Deputy Speaker, the Attorney General has placed this legislation as another piece of the puzzle in his anti-crime measures, in the tools to fight crime in this country. I do hope this particular piece of legislation really adds some additional value. I do not think we have been very successful so far in a lot of the other measures that have been brought before this Parliament that have been labelled “anti-crime legislation”, because you can still see a fair amount of crime that is happening in the country, so I do hope this particular piece really adds some value and we see some changes coming forward.

Mr. Deputy Speaker, I wanted to touch on some information that was provided by the real estate association as it is designed today, that group AREA. There was a particular concern where that association was formed under another peculiar piece of legislation called the Association of Real Estate Agents (Inc'n) Act, No. 10 of 2012, and there was a query whether— that if the Parliament, an Act of Parliament, this Bill can make that particular Bill of 2012 null and void basically, is it legal to do so? Does the Parliament have the power to do? And perhaps the Attorney General could speak to that to answer that question on behalf of that group.

Mr. Deputy Speaker, there were some other questions that came up during my looking at the Bill and I know it may not stand from a very heavily legal standpoint, but I think they are questions nonetheless. Clause 12 indicate there is a notification of within 21 days after a decision to register or not register is made by the Registrar General's office. What I felt is that for too long there are a lot of government agencies when the citizenry makes applications for registration and so on, that sometimes these requests remain languishing for weeks, months, years, and perhaps, if it may have made sense, that some timelines be set in the legislation that especially in such a critical area of real estate, as I now mentioned how critical

it is to the economy, if perhaps the Attorney General can look at putting in some set time lines in terms of responses from the registration process and so on.

Mr. Deputy Speaker, the Bill also distinguishes between an agent, a broker and a developer, and in my mind, I am asking: what happens when the same characters are representing themselves in various portfolios? Does that lead to some mischief inside the system? Does the legislation prevent that from happening? And if it does happen, what are the potential challenges that can erupt and perhaps if the legislation could ensure that this does not happen at any point in time? So, for instance, can a lawyer be a purchaser, or a seller, or a conveyancer, or a valuer, all at the same time? So, if that is some mischief that can happen there, perhaps the legislation can look at that.

Mr. Deputy Speaker, there was also an issue of how does this Bill, this particular Bill, how does it tie in to the Housing Act of 1962, which both Bills attempt—this Bill and that Bill attempts to define what a developer is. A developer, in this case, could be a person or a company that is subject to company law and so on. But in the Housing Act of 1962 it allows the developer to register as a trader in housing. Perhaps—would this cause a problem having those two Acts in place? Would it cause some confusion or perhaps create some issues, legally, going forward in identifying who are developers?

**4.40 p.m.**

Mr. Deputy Speaker, there is another issue in terms of the legislation under the area of developer that I found may be a bit—providing some legal challenges that the Attorney General may want to look at. In this Bill a developer is:

“...a person who—

- (a) engages in simple development under the Planning and Facilitation of Development Act and includes”—and it goes on to includes a number

of areas.

If you look at subclause (iii) it says that developer:

“...land subdivisions including engineering operations, comprising less than twenty plots, provided that each plot falls within the range of four hundred and sixty-five square meters and...”—five thousand square feet.

The question here is, Mr. Deputy Speaker, you can call yourself a developer if you are developing your land under anything less than 20 plots and the law specifically states the size which is that 5,000 square feet, that 465 square metres. And I think in the contribution of the Member for Tabaquite he did indicate that there were some developers that he was aware in Central Trinidad, were doing lots at 3,500 square feet. Now, they may be at various stages of their development. How does this law, when it is enacted finally, impact those developers who may have been using smaller square footage for their lots at the end of the day? So perhaps the Attorney General can speak to what will happen to those developers who are already mid-way or three-quarter way into their development and it does not fall under this particular regime as outlined in the legislation.

Mr. Deputy Speaker, I also want to add another piece of commentary here to my reading of the legislation. And as an avid follower of the United Nations Sustainable Development Goals I always look for in any piece of legislation that is brought before this House to see how well it ties in to the Sustainable Development Goals as outlined by the United Nations. And yet again I am hoping that the framework of this piece of legislation would have been in line with what are the expectations of those UNSDGs since housing is such a huge part of the SDGs. I cannot recall in the moving of this Bill that any mention was made whether the legislation was in confirmation any part of the UNSDGs. So that is something that I am hoping that when it becomes finalized we can take a look at that.

Mr. Deputy Speaker, in the moving of the Bill as well the Attorney General he indicated how critical this piece of legislation would have been and its tie in to the FIU in terms of dealing with the issues of money laundering, dealing with the issues of terrorist financing and so on. But I have a couple of questions that perhaps, you know, the Attorney General can speak to in his wind up.

In the years that the FIU has been in existence and in operation, if they have been successful it has not been made public, because the Attorney General mentioned a fair amount of cases that would have gone to the FIU. And I feel that the FIU may not have achieved its full stated purpose over the years. Are we hedging the success of this piece of legislation on the FIU, and the FIU may not be living up to its full potential and perhaps some attention to the FIU, its structure, its resourcing, its teeth perhaps may need to be given more power in order to really work together with this piece of legislation. And I am hoping that that is something that the Attorney General would be looking at, because when you look at—Mr. Deputy Speaker, I have a document here from the TTPS, the Fraud Squad that gave an indication of the amount of the cases in terms of real estate fraud that would have come to the TTPS over the last few years. And if you would allow quickly just to read a bit of it:

In 2014 there were 45 reports amounting to a value of over TT \$16 million.

In 2015 there were 77, \$6 million; 2016 there were 29 cases half a million dollars; and in 2017 there were 75 cases allotting to over \$17 million as well.

Now, if this legislation is going to work in tandem with the FIU what is the status of these reports, these cases, you know? Does this come back to my point of, do we have to strengthen the FIU as well to be able to add the type of value that the Attorney General is hoping that this Real Estate Bill will solve taking into consideration that we have all these cases from 2014 to 2017 and perhaps knowing

Mr. Paray (cont'd)

the status of some of these, has there been any success? Has the FIU been able to lay charges, prosecute successfully to the courts on some of these matters? So, Mr. Deputy Speaker, that is the component of the FIU that I would have liked to—I am very interested in finding out going forward.

Mr. Deputy Speaker, the reason why this particular issue on the fraud component is very worrying to me—that Mayaro is famous for a series of cases by a matter concerning a gentleman by the name of Walter Gomez. These matters would have gone through the courts, would have been settled, where a lot of land, this gentleman claimed that he owned probably half of Mayaro and he would go in to people's property, move them out, put up the property for sale only to end up in court years after and these matters were dealt with. But only when—these people would have spent a substantial amount of money in the court process. So if this legislation would prevent the Walter Gomezes of the world then I have no reason not to support the conditions that are subscribed in this legislation.

Mr. Deputy Speaker, another area that I think I did not see the Bill address was that of foreign direct investments. When you look at some other jurisdictions, if I were to just mention, in February of this year, Mr. Deputy Speaker, the United States Congress introduced two pieces of regulations to cover foreign real estate transaction. And one of the greatest pieces of the money laundering puzzle and the financing of terrorism puzzle ends up with these foreign direct investment—

**Mr. Deputy Speaker:** Member for Mayaro, you have two more minutes.

**Mr. R. Paray:** Yes, thank you—that ends up in that industry. So perhaps if the Attorney General can identify whether the legislation as it stands is looking closely or more closely in terms of foreign ownership of property and whether that arm, that reach of foreign entities that may be nefarious can really get away with some of these things in this country.

Real Estates Agents Bill, 2020 (cont'd)  
Mr. Paray (cont'd)

2020.05.08

Lastly, Mr. Deputy Speaker, in the one minute that I have, I know the Code of Ethics or something that was raised by my other colleagues, the Member for Chaguanas East spoke about accreditation, the quality of the personnel. I think the Code of Ethics is absolutely important for the legislation. I know it is going to come via regulation, but I felt taking a look at how important this piece of legislation is to the national economy perhaps that Code of Ethics could have been put in somewhere along inside there to give it the full power, the full teeth and I look forward to see how this unfolds.

So, Mr. Deputy Speaker, I know with the limited time we have I had a lot of other areas, but I do hope that in the spirit of positiveness on this particular Bill and I look forward to the Attorney General's wrapping up of it and perhaps he would be addressing some of these issues that were raised. Thank you very much, Mr. Deputy Speaker.

### **PROCEDURAL MOTION**

**The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis):** Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, in accordance with Standing Order 50(3), I beg to move that the debate on this Bill be adjourned. [*Crosstalk*]

Sorry, Mr. Deputy Speaker, just for clarification, we are just adjourning temporarily to go to an item that was put for later in the proceedings and then when we return we will resume the Bill. Sorry about that. Thank you.

*Question put and agreed to.*

### **REPRESENTATION OF THE PEOPLE (AMDT.) BILL, 2020**

Bill to amend the Representation of the People Act, Chap. 2:01. [*The Prime Minister*]; read the first time.

**The Minister of Social Development and Family Services (Hon. Camille**

**Robinson-Regis):** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I beg to move on behalf of the Prime Minister that in accordance with Standing Order 64(1)(c), the Representation of the People (Amdt.) Bill, 2020 be referred to a joint select committee hereby established for its consideration and report by August 31<sup>st</sup>, 2020.

*Question put and agreed to.*

**JOINT SELECT COMMITTEE  
(APPOINTMENT OF)**

**REPRESENTATION OF THE PEOPLE (AMDT.) BILL, 2020**

**The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis):** Thank you very kindly, Mr. Deputy Speaker. Mr. Deputy Speaker, I beg to move that subject to the concurrence of the Senate on the establishment of this committee, this House appoint the following Members to sit with an equal number from the Senate on the joint select committee established to consider and report on the Representation of the People (Amdt.) Bill, 2020:

Mrs. Camille Robinson-Regis

Mr. Fitzgerald Hinds

Ms. Shamfa Cudjoe

Mr. Colm Imbert

Dr. Tim Gopeesingh

Mr. Rudranath Indarsingh

Thank you, Mr. Deputy Speaker.

*Question put and agreed to.*

**Mr. Deputy Speaker:** This sitting is now suspended for tea until 5.30 p.m.

**4.54 p.m.:** *Sitting suspended.*

**5.30 p.m.:** *Sitting resumed.*

[MADAM SPEAKER *in the Chair*]

**REAL ESTATE AGENTS BILL, 2020**

**Madam Speaker:** Hon. Members, debate on the second reading of the following Bill which was adjourned earlier today will be resumed.

A Bill to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession, to protect and assist persons engaged in transactions with real estate agents and to assist in the detection and prevention of money laundering and terrorist financing, and other related matters.

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam Speaker. Madam Speaker, may I enquire, is it 30 or 20 minutes for wrap up.

**Madam Speaker:** It is 20 minutes for wrap up.

**Hon. F. Al-Rawi:** Twenty minutes. In the Senate it is 30. Much obliged.

Madam Speaker, I thank you for this opportunity to wrap up what I consider to be an extremely important piece of legislation. Madam Speaker, I thank all hon. Members for their contributions. I think that the contributions to this debate have been very constructive and certainly as Attorney General I welcome the submissions coming from my colleagues opposite. Certainly they are food for thought and in some instances have found their way into submissions which I have asked to be circulated as I am now speaking, by way of proposed amendments to this legislation. Permit me to dive directly in this process therefore to the answer that is required to some of the submissions coming from my colleagues.

Madam Speaker, the hon. Member for Mayaro, the hon. Rushton Paray made note of my submission that this legislation was driven to the heart of improving our fight against criminality and crime and that this was in effect, another money laundering—anti-money laundering, anti-fraud, anti-corruption,

passage of legislation which joins all of the others. The hon. Member for Mayaro said that the other Bills that were brought did not meet with the level of success that he hoped he would have seen and that he hoped that this one would in fact get there.

I would like to remind the hon. Member as he made the further submission relative to the FIU, and whether the work of the FIU was as robust as it ought to be in light of the number of suspicious transactions that have been noted in the period by his reflection, 2014 to 2017. And if I could just say this: It must be a feature of absolute certainty that the criminal justice system is what was required to make legislation work. In answer to the hon. Member for Mayaro I will say, it is a certified improvement that has been noticed. Do not ask the Government whether that is true, ask the Financial Action Task Force.

The FATF gave Trinidad and Tobago such a confident recommendation to its plenary that we were removed from the list of jurisdictions that have strategic deficiencies in their money laundering and fighting of terrorism and anti-corruption regime. We unlike most other countries, in fact, we were the only country graduating in that group. And quite astonishingly the only criticism that came against the Government of Trinidad and Tobago came from a past Senator, a past Minister of Government of the UNC, in fact, Devant Maharaj, on the FATF website when they were congratulating; when the President of the FATF congratulated Trinidad and Tobago and me, its Attorney General, for a marvelous job done by this country, the comment coming from my friend Devant Maharaj was, Trinidad and Tobago has no money laundering convictions.

Madam Speaker, that is entirely untrue and in answer to the Member for Mayaro's submission, the record will demonstrate that the criminal justice system has begun to work in a way that has never been seen before. The first couple of

unexplained wealth orders are in court as we speak. We are looking at money laundering convictions as we speak. We are looking at people being indicted for serious complex fraud and brought before the court in record time with plea bargaining legislation that this Government brought.

So for my learned friend to say that he had not noticed the working of the laws that we passed in this Government's tenure, I just remind my friend look to the near 1,000 orders that the Office of the Attorney General has received under the anti-terrorism legislation; look to the landmark unexplained wealth orders that we have brought to court; look to the pleas of guilt coming under the plea bargaining legislation; look to the population of the sex offenders registry and you will see a level of efficiency that you have not seen before because of the other things we put in place. The Criminal Division Bill, the Family and Children Division Bill, the Criminal Procedure Rules, the raising in the number of judges legislatively from 36 to 64, from two Masters of the court to 25 as we move to full capacity; the opening of 165 courts. By the time we are finished in June of next year, Madam Speaker, I just tell my friend, hold on, have a look and you will see the evidence there.

Madam Speaker, permit to say thank you to the members of the AREA, that is the Association of Real Estate Agents of Trinidad and Tobago, incorporated under Act, No. 10 of 2012, and permit to also say thank you, a sincere thank you to the newly formed Trinidad and Tobago Real Estate Association. And the TTREA, I can say that I have met with them this week by way of a Zoom meeting, they represent over 200 persons in their package and therefore in answer to my friends, colleagues, we have had consultation with hundreds of persons via their representation coming from the AREA Association and also the TTREA Association. And the correspondence which I do not have time to go through

simply says, thank you for regulating an industry.

Madam Speaker, in fact it is quite amazing to me that no one prior saw it fit to regulate the real estate industry. All of us in Trinidad and Tobago know that land is the most important resource and yet, Madam Speaker, with the registration system being as it is in Trinidad and Tobago for land, with the level of fraud declared that over \$24 billion in the FIU reports for one year only, Madam Speaker, as we look to the cohort of this type of land fraud, and the other types of fraud, it is staggering that no one has paid the attention to the regulation of the system by which we regulate land and also the system of the persons who sell, participate or manage land. And therefore, Madam Speaker, I am extremely pleased that this Bill has received overwhelming support from the stakeholders themselves.

Now permit me, Madam Speaker, to jump to a few of the recommendations and observations coming. We at the Attorney General's Office have of course been looking at the law over and over again. I take on board the recommendations coming from my friend in his very good contribution, the hon. Member for Chaguanas East made some very good observations about the level of training and requirements, but let me put this Bill in simple form. Number one, the real estate agencies are going to be managed under this Bill. First thing we do, we create a mandatory requirement for registration. All of the players involved in the land sphere, who deal with land or property or in the real estate agency, there are four categories of them we looked at. Number one, you are a sales associate; number two, you are a broker; number three, you are a developer; and number four, you are a brokerage.

A sale associate is anybody involved in the business of real estate. You need only be registered at the Registrar General, meeting prescribed qualifications

which are de minimis or little and the anti-money laundering form that you have to fill out and the other formalities. The people who have to be licensed are the brokers and brokerages. They have to be licensed because they are going to be permitted the privilege of handling people's money. Right now brokers act as stakeholders, hold on to moneys that belong to other people and unlike attorneys-at-law or other professionals there are no standards in the industry to monitor them other than the common law. So the only person who is required to be licensed is going to be the broker or the brokerage.

In the case of the developer I thank the Member for Tabaquite for his observations and also the Member for Mayaro. We are looking at what the law does not apply to. So there is a disapplication clause in the Bill. The law does not apply to the state or state enterprises, HDC, et cetera, et cetera. But it also does not apply and we are working on how this exception will be developed overtime. It does not apply to somebody who acts for himself in his own land development as a developer. And therefore, Madam Speaker, we proposed an amendment to the definition of developer which would capture the categories that we are looking for and now we are saying that a developer should be not tied to the Planning and Facilitation Development Act. A developer is a person who erects buildings or structures upon land for sale, causes infrastructure to be built or installed upon land for sale or causes the subdivision of large parcels of land into smaller lots for sale.

And what do we want from this developer? We want this developer to simply go to the Registry, the Registrar General; fill out the form that says, I am a developer, I am acting under the provisions of this Bill as an exception to the rule; log me as a developer; fill out my anti-money laundering form, et cetera, and take avail of the exemption under clause 5(2)(d) and (e) of the Bill. This allows the real estate agents who deal with land, sales associates who need only be registered and

not licensed, brokers who must be registered and licensed brokerages which need to be registered and licensed and developers who need only register themselves all of them filling out the anti-money laundering form for the FIU, you need to be on the register so that the Financial Intelligence Unit can track your transactions.

What does that give you? It gives you the certainty of the profession. You know who the person you are dealing with is. Number two, it gives you a remedy to go against these people in the event that they run afoul of the fraud that we have noticed. And I remember very well, the example given to us by the Member for Mayaro of the fraudster who was well-known to the police in Trinidad and Tobago, but fraud is a reality, so you have a remedy against that. You also have a remedy against people who take your money acting as brokers, spend it on something else and then you have to go and sue them to collect the money. This law requires brokers and brokerages to have the money set aside in a separate bank account, it cannot be touched, it cannot be comingled with their moneys just like attorneys-at-law have to keep client accounts separate from their personnel remuneration. So that is number two, the remedy aspect.

Number three, it also manages to allow the Financial Intelligence Unit to look for the schemes of fraud, because it is in the real estate business as I have said time and time again, together with companies and cash that you actually hide the proceeds of crime. So I remind the Member for Mayaro that in the operationalization of some of our works the demonetization of our \$100 bill was a radical effective mechanism to uncover criminality and we saw that in its many forms, be it tax evasion or fraud or other aspects, proceeds of crime, these have been discovered. And just to let the hon. Member for Mayaro know, we are also working on a significant overhaul of the Financial Intelligence Unit.

The Financial Intelligence Unit stands as an administrative unit at present, it

is perhaps best modified into a hybrid unit. But, Madam Speaker, where I am confident is in watching the work of the Financial Investigation Branch. The Trinidad and Tobago Police Service operates alongside the FIU and they have made rampant strides. In one instance the head of the FIB was able to come to the population having received a report from a member of the society that alleged that the Prime Minister was supposedly engaged in wire transfers and receiving money. Thanks to the Financial Investigation Branch of the Trinidad and Tobago Police Service that lie was put to bed. That untruth, forgive me, was put to rest. And that, therefore, is a very good example of the police working in tandem with the FIU.

**5.45 p.m.**

I want to remind it is this Government, through the Commissioner of the Police receiving the Anti-Corruption Investigation Bureau which used to be at the Attorney General's Office, the Commissioner of Police married that unit up with the Fraud Squad, with the other divisions of the Trinidad and Tobago Police Service, the white collar unit and the cybercrime unit, and put that unit into operation, and therefore, you are now seeing the purchasing power of legislation that is well thought out.

The Bill, Madam Speaker, also allows for the creation of a disciplinary committee apart from the licensing committee, and the disciplinary committee and the licensing committee are both creatures—I thank the Member for San Fernando East for an excellent contribution—they are underwritten by the appointments coming from the Judicial and Legal Service Commission. Why? We have modelled it after the other legislation that stands as precedent. You take the industrial relations construct at the Industrial Court, you take the tribunals that have been established, you look at the public procurement, we have put an

independence of the Judicial and Legal Service Commission appointing those people and then we go the step further to say that no one shall have control over these entities. In other words then, full autonomy and independence. We go further. We say that the alternates to these bodies shall be selected by the President of the Republic of Trinidad and Tobago—not the Cabinet—acting in her own discretion.

So, Madam Speaker, this is actually quite novel legislation. It is robustly written. It can withstand all service requirements of proportionality and constitutional inspection. In creating the association, and in answering Mayaro, we did not intend to have AREA repealed. That is a matter for AREA, incorporated by a private Act of Parliament, to repeal itself. In fact, I have spoken to AREA about this. This body says this Bill creates an association. The association is open to every single real estate player, broker, brokerage or sales agent in Trinidad and Tobago including the members of AREA. They will allow themselves to hold their first meeting. They, all of these persons we have factored in the transitional provisions, will have the Registrar of the Registrar General's Department act as the Secretary for the purposes of the first meeting—it is contained in the schedule to the Bill and in the clauses to the Bill—convene the meeting of all the members and the membership will elect who they wish onto the body. Exactly like the Law Association does, engineers, whomever else, it is the body of the entity players who elect themselves into that.

Therefore, there is no Government control in the licensing committee, in the disciplinary committee where the majority and the quasi-judicial functions are exercised by the Judicial and Legal Service Commission appointees.

Thirdly, you are not looking at Government control in the association because the association elects its own people, president, vice-president, treasurer,

et cetera. So this allows that whole co-regulatory approach where the Government receives the anti-money laundering forms, the registrar general's intervention in issuing the registration or not, the Trinidad and Tobago Police Service has access, a court order has access to private information because the registrar has a public part and a private part. The public part the public can see, but only law enforcement, FIU, or court order permits access to the private register. That precedent has been set in the construct that we used for the creation of the non-profit organizations in the non-profit organizations Act. Madam Speaker, what time is full time?

**Madam Speaker:** Your full time is 5.51.26.

**Hon. F. Al-Rawi:** Much obliged. I will pray that we do like the Senate and give the wrapping up to 30 minutes and not 12 by way of further consideration to 30 minutes. Madam Speaker, if I can say, we have also sought to amend the transitional provisions in the legislation. We are proposing a 12-month period of non-operation from proclamation of the law for sale associates, and an 18-month period for the brokers and brokerages unless the period is extended. It may very well be, and it is an actual concern, that we will extend the time frame so that the capacity of the entities that have to approve their licences by way of qualifications produced or accessed can be brought in. So if Roytec takes two years to do the course, we need to give two years' time frame to manage it. If the methodologies recommended by Caroni East quite commendably and intelligently are to find themselves into the prescriptions, those two can be factored as well where you bring in the learnt aspect of being in the industry for as many years as you have been.

Madam Speaker, this law as it relates to the mandatory provisions of being a member of the association, et cetera, meet constitutional muster. That has been

settled in the Nurse case of the Court of Appeal in Barbados and by way of expressed opinion coming from the AG's office. I believe that I am now at end of time, Madam Speaker. I will take the rest of it at committee stage and I beg to move. [*Desk thumping*]

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*House in committee.*

**Madam Chairman:** Members, could we have an agreement that the clauses to which there are no amendments we will take these clauses as a block? So that we will only take individually—

**Hon. Members:** Yes.

**Madam Chairman:** All right. So thank you very much.

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed:* That clause 3 stand part of the Bill.

Delete the definition of “developer” and substitute the following:

“developer” means a person who—

- (a) erects buildings or structures upon land for sale;
- (b) causes infrastructure to be built or installed upon land for sale;
- or
- (c) causes the subdivision of large parcels of land into smaller lots for sale;

**Mr. Al-Rawi:** Thank you, Madam Chairman. Madam Chairman, we propose an amendment to clause 3 specifically to treat with the definition of “developer”. Coming out of the recommendations from Tabaquite East—sorry, I am already

anticipating a split of that constituency. Coming out of the recommendations from Tabaquite and our deliberations, and as echoed by Mayaro today, we felt it prudent to move away from the Planning and Facilitation Development Bill and to instead capture the definition in term circulated. It allows us effectively to catch the widest form of personal development, whether it is by way of infrastructural lot development, or just subdivision development, or development of lots together with housing for sale and development. It allows us that full ambit in clause 3 if we amend “developer” as per the circulated draft.

**Dr. Tewarie:** Attorney General, you say you are disassociating the clause from the Planning and Facilitation of Development Bill totally and including these amendments that you are suggesting here. There was another issue that came up in relation to that having to do with whether someone is a full owner or part owner of a property. How is that going to be taken into account?

**Mr. Al-Rawi:** Because we have used:

“‘developer’ means the person who—

erects builds or structures upon land for sale;

causes infrastructure to be built or installed upon land for sale; or

causes the subdivision or large parcels of land into smaller lots for land for sale;”

—what we are doing is we are capturing all, whole or part owners.

If I point you to the fact that clause 5 deals with—clause 5(2)(d) excepts a person who “deals with real property of which he is an owner or a part owner”. So we are not registering that person. That is what I meant in the winding-up when I said we are looking at certain other avenues that we need to capture. So we are not looking at that person yet. What we want to look at is (e), the person is a developer. It is because the “developer” as crafted in this definition includes the whole and part owner, or even the person that causes the development in a

consortium.

So let us say somebody arrives with the property, establishes a limited liability company, vests the property into the company or pledges the property into the company, uses the capital from another person as a joint venture entrepreneurship there, “developer” will capture all of that, owner, part owner, individual, corporate entity, and then the management of how that goes. So I am very comfortable with this definition of developer capturing that. What we want there is to strike a balance between the bona fide genuine interests of people in developing their properties, and again for the record I declare my own interest.

As you all know, I have significant development in my own personal life as many Members in this Parliament do. So for the record I again say it. I said it in my piloting, and I want to—in fact, if I was one of those people I would want to catch myself. I want to make sure that I am not developing a property under an ownership position where I may be the developer or a single person myself, I am not a real estate agent, I want someone like me to be compelled to go to the Companies Registry, fill out the form, put in the anti-money laundering, terrorist financing, proliferation financing information, submit it all my personal information for law enforcement, FIU, and other people to have a look at so that it can be tracked properly.

**Dr. Tewarie:** Okay. Could I follow this up by asking two questions? A company then is not captured here as a developer, but will fall under another law, is that correct?

**Mr. Al-Rawi:** Sorry, hon. Member. The company will be a company, an individual, a consortium, an arrangement. Anyone of the multiple iterations will be caught as a developer.

**Dr. Tewarie:** But how does saying a developer means a person—how does that capture all of this?

**Mr. Al-Rawi:** Sure. Person under the Interpretation Act includes an individual, a company, et cetera. So it is a term of law.

**Dr. Tewarie:** Okay. And will there be any contradiction between this and what obtains under the 1962 HDC law?

**Mr. Al-Rawi:** That is as a registered developer?

**Dr. Tewarie:** Yes.

**Mr. Al-Rawi:** No. So there is no conflict, nor is there any implied repeal intended. Registering yourself as a trader in houses, coupled with the reliefs that Minister of Finance Imbert gave, that is intended to be that you access the developmental benefits of registering as a trader in houses. So that is a regime to cause a benefit to encourage development. What we want here is to have a unified registry where we capture all the players who engage in land because the mischief that we are looking at is capturing the exploitation of the market, the conflict of interest in acting for both purchaser and as seller, dual agencies. We want to capture all of this, and I will tell you from a money laundering perspective as we relate to “developer” that is where you are going to catch the largest potential for crime.

The proceeds of crime poured into land where somebody has illicitly received it, and that person is now “wealthy enough to develop the land himself using cash developing”, some legitimate bills and some cash bills as the stories go. That person as a developer will for the first time in this country be holding up a red flag by buying the registration. You have to register. All you are saying, look, I am a developer and I am taking utilization of clause 5. It will become section 5(2)(e). Section 5(2)(e), I am a developer, take notice to the whole world and come and check me if you wish. And that is all.

**Dr. Tewarie:** Okay, I am comfortable with the explanations.

**Dr. Khan:** When you said a “developer”, the first part, the stem, says “a person

shall not be regarded as engaging in real”— I mean, sorry I jumped to 5. I will wait until 5.

**Madam Chairman:** So, Member for Caroni Central, is it that you are withdrawing your amendment?

**Dr. Tewarie:** Yes.

*Amendment, [Dr. B. Tewarie] withdrawn.*

**Madam Chairman:** Yes? Okay.

**Mr. Al-Rawi:** And for the record, Madam Chair, I thank the Members opposite for joining us in this discussion on “developer”. It was Tabaquite that raised the point first off, and certainly we were looking at it and all renders well. So I thank Members for the joint thought.

**Dr. Rambachan:** Thank you, Madam Chairman. Just to clarify, there is no conflict between what is the Planning and Facilitation Development Bill and what you have here as developer? There is no conflict?

**Mr. Al-Rawi:** No. No, no, because they are two different regimes. You mean the registration as a developer and—

**Dr. Rambachan:** No, no, the definition.

**Mr. Al-Rawi:** In the definition?

**Dr. Rambachan:** You see, with the 21 lots and simple development and so on.

**Mr. Al-Rawi:** No, no. So if I may, because it is an important point. So the Planning and Facilitation Development Bill, that is intended to capture a definition of developer by way of large or small development for the purposes of whether you go to head office or decentralized office. So simple developments go to the regional offices, and complex developments go to the centre aspect. So the aim and purpose of the Planning and Facilitation Development Bill is to say which route do you go. Do you go to head office, or do you go to regional office? And therefore, that definition applied there for complex and simple development.

In this definition we are looking to capture a different purpose. The purpose is people who are legitimately engaged in developing their own properties in whatever arrangement they do with someone else and not acting as real estate agents, but they are developing 100 lots and they are marketing it themselves, let them at least flag and register.

**Dr. Rambachan:** I just wanted to be clear that—

**Mr. Al-Rawi:** Sure.

**Dr. Rambachan:**—there is no conflict.

**Madam Chairman:** So the amendment circulated by Member for Caroni Central is withdrawn. And the question is that clause 3 be amended as circulated by the Attorney General.

*Question put and agreed to.*

*Clause 3, as amended, ordered to stand part of the Bill.*

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

*Clause 5.*

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

Insert the following new subsection:

Chap. (6) Nothing in this Act shall affect the obligation of a  
84:03 real estate agent to comply with the Auctioneers Act.

**Mr. Al-Rawi:** Madam Chair, we were looking in clause 5 to add an amendment to be sure that we caught the Auctioneers Act. So in clause 5 where we deal with real estate business, we are saying that we have used the term “auctions” in 5(1)(a):

“A person engages in real estate business if he—

(a) auctions or negotiates the sale, exchange”—et cetera.

Now, there is a rule of law which is debatable always that a subsequent piece of law, if it is different from an earlier piece of law, and if it does not expressly

amend it, it can be argued that it impliedly amends it. That goes either way. On one hand, it is thought that look, nothing could accept you from the obligation to be registered under of the provisions of the Auctioneers Act because surely that is a regime that stands on its own. But insofar as it could be argued that you are allowing in section 5(1)(a), an auctioneer capability, we did not want to run the risk. So out of abundance of caution, we have sought to say in a new subclause (6) that:

“Nothing in the Act shall affect the obligation of a real estate agent to comply with the Auctioneers Act.”

And that is just out of an abundance of caution.

**Dr. Tewarie:** Yes, Attorney General, I want raise two issues here. The first thing is the case of a person selling his own property. I want to suggest that we put in a clause which basically says, and you may adjust or reformulate as you think reasonable, “a person seeking to sell his own property without aid of a real estate agent does not have to be registered as a real estate agent.”

**Mr. Al-Rawi:** Sure.

**Dr. Tewarie:** Okay. Is it possible to include—

**Mr. Al-Rawi:** Yes, yes.

**Dr. Tewarie:**—a clause like that? And the second thing that I want suggest—unfortunately it was missed in the document—is that a person engaged in the real estate business is so engaged on behalf of another person, that person is so engaged for compensation or valuable consideration, and the idea is to clarify this issue that a person may sell his own one piece of property, but the person who is a real estate agent is actually doing it on behalf of another person for compensation. If you would accommodate that I will be grateful.

**Mr. Al-Rawi:** Sure. I thank the hon. Member for his submissions and I seek to address them as follows. The issue of allowing somebody the flexibility to do their

own sale is paramount clear. We agree with that. We have captured it in section (5)(2)(d), and here is what it says. So if you read the chapeau of section 5(2):

“Notwithstanding subsection (1), a person shall not be regarded as engaging in real estate business by reason only of the fact that—

“(d) he deals with real property of which he is an owner or part;”

So that captures the essence of what the hon. Member has circulated in his proposed—

**Dr. Tewarie:** Which clause is that, AG?

**Mr. Al-Rawi:** It is at page 9 of the Bill at subclause (2), (d) as in delta. So what it says is you are not regarded as being engaged in a real estate interest if you are dealing with property of which you are an owner or part owner. Now let we explain why we use the word “deal”. We have dealt with “deal” because a real estate agent does more than just sell. They may lease, they may license, they may rent out on certain the terms and conditions.

So we did not want to have the unfortunate position where you are legitimately managing your own property, you are not calling yourself a real estate agent, you are not acting for anybody on anybody’s part, and you are treating with you own proper, your fundamental right to enjoy your property which the Constitution clearly identifies in section 4 of the Constitution has to be preserved here, and therefore, we have kept that self-dealing because it is much more than just selling your property. You may rent it, you may license it, et cetera. So somebody who is running a little guest house in Toco, who rents out the property and has some nice rooms, et cetera, a different law may catch them whether they are dealing with themselves as Econo lodges and they are applying for benefits or whatever that might be, but they will not be considered to be a real estate agent here. Yeah?

**Dr. Tewarie:** Yeah.

**Mr. Al-Rawi:** And then on the second point which is dovetailed into your first point, where someone else is acting for and on behalf whether for consideration which is valuable by way of cash or otherwise, that is caught in the definition of a real estate agent. When we look to clause 5(1), a person engages in real estate business if, and here we have the iterations (a) through (e) inclusive, you advertise, hold out, you auction, negotiate, exchange, purchase, lease, engage in property management, you take part in procuring of venders, purchases, et cetera, directs or assists in the procuring of prospects, et cetera.

So we have gone with the standard classic definition we have seen in a number of jurisdictions: British Columbia, New Zealand, the Cayman Islands, The Bahamas, we have reflected on some of what Barbados is thinking of. So we have sought to capture that there, but the concern that the hon. Member has just raised is in fact addressed in the Bill. I can understand it takes a little while to catch up to this and I know it is not because of an intelligence factor, it is fairly complicated and it requires one to have an understanding of conveyancing and other management issues which obviously all of us do not have.

**Dr. Tewarie:** So you are saying that all of this captured in 5(1)(a) to (e)?

**Mr. Al-Rawi:** 5(1)(a) to (e), the later part of your submission, and 5(2)(d) and the first part of your submission, (d) and the first part of your submission which you have circulated.

**Madam Chairman:** Member for Caroni Central, are you going to withdraw your proposed amendment?

**Dr. Tewarie:** Yes, I will.

*Amendment, [Dr. B. Tewarie] withdrawn.*

**Mr. Al-Rawi:** Thank you, hon. Member.

**Madam Chairman:** Amendments proposed by Caroni Central are now withdrawn and I will now put the question.

*Question put and agreed to.*

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

*Clause 6.*

*Question proposed:* That clause 6 stand part of the Bill.

A. Delete subclause (1) and substitute the following subclauses:

(1) A developer, prior to—

(a) erecting buildings or structures upon land for sale;

(b) causing infrastructure to be built or installed upon land for sale; or

(c) causing the subdivision for large parcels of land into smaller lots for sale,

shall apply on the prescribed form to be registered in the Register of Developers.

(2) An application for registration under subsection (1) shall be submitted to the Registrar General together with—

(a) a completed AML/CFT/PF risk assessment questionnaire; and

(b) the prescribed fee.

(3) The questionnaire referred to in subsection (2)(a) shall be in such form as may be prescribed.

(4) In this section, “AML/CFT/PF” has the meaning assigned to it in section 8.

B. Renumber the original subclause (2) as subclause (5).

**Mr. Al-Rawi:** Madam Chair, consequent upon the amendments to clause 3 where we amended the definition of “developer”, it was necessary to cause an amendment to clause 6 because clause 6 only contemplated in the version in the Bill selling of individual lots. It is clearly now, with the recasted definition of “developer”, we

are going a little bit broader than that. As a result of that, Madam Chair, subparagraph (a) in the circulated amendments catches what the developer will be doing in the new reformulated version. So that as circulated to capture the definition of developer. Then when we go down into subclause (2) of A., what we are asking for, we are causing this obligation of the developer not only to fill out the form that you are a developer at the registry, but also to fill out the completed AML/CFT/PF questionnaire and the prescribed fee, and we are saying that that meaning is the same meaning as in clause 8 because clause 8 is where we had defined it are originally.

It is a concept which the Financial Action Task Force has asked us to include. We first introduced it as a Parliament in the Non-Profit Organisations Act which has now become law in Trinidad. Later on you will see an amendment, Madam Chair, where we are ensuring that that aspect of information is never made public. That is in the private part of the registry. It is only assessable to the Financial Intelligence Unit, to law enforcement, or under a court order. And then subparagraph (b) is just the consequential renumbering because of the introduction of the (1) as we have done, and therefore, it bounce the numbering down. So that is in summary the rationale for the amendment to clause 6.

*Question put and agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

**6.15 p.m.**

*Clauses 7 to 9 ordered to stand part of the Bill.*

*Clause 10.*

*Question proposed:* That clause 10 stand part of the Bill.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** Madam Chairman, I beg to move that clause 10 be amended as circulated:

Delete the words “an attorney-in-fact, a real estate agent of a developer” and substitute the words “a real estate agent or a developer, or from being appointed as an attorney under a power of attorney”.

Madam Chair, clause 10, we are proposing to make an adjustment. We had included an interesting phrase in 10(c), “c” as in Charlie, and that is the reference to “an Attorney-in-fact.” An attorney in fact is a power of attorney holder as opposed to an attorney at law, who so obviously registered under the Legal Professional Act and called to the Bar, et cetera. So this concept of “an Attorney-in-fact”, when we dug a little bit deeper in the reflections—I confessed over the last couple of weeks, we felt it was not appropriate yet to have a foreign jurisdiction say that because you are not allowed to have a power of attorney, that you ought to be disallowed under this legislation. And we say that, even though that is prudent, we have not yet amended our law to cause powers of attorneys to be limited that way.

I can tell you, Madam Chair, that right now at the AG’s Office, I am looking at amendments to powers of attorneys, in particular, perpetual powers of attorneys, et cetera, because the law is quite ancient, people have not been paying attention to it. We have some very clear amendments in mind, God’s willing, in the course of the next couple of weeks but certainly, in our return to government after the general election, we will be able to manage that one.

*Question put and agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 11 ordered to stand part of the Bill.*

*Clause 12.*

*Question proposed:* That clause 12 stand part of the Bill.

**Madam Chairman:** Dr. Tewarie.

**Dr. Tewari:** Yes. Attorney General, I had raised this in my contribution, which is that in clause 12 it talks about 21 days after his decision, that is to say the decision of the Registrar General.

**Mr. Al-Rawi:** Yeah.

**Dr. Tewarie:** And then it talks— 21 days of the date of his decision in (2), but what it does not say in there is, how long it will take to get a decision, yea or nay.

**Mr. Al-Rawi:** Sure.

**Dr. Tewarie:** And I thought that it is important given the fact that part of the problem we have here is that you can make an application and it can take two years before somebody looks at it or responds to you, that we set a time limit for responding “yea or nay.” So I wanted to suggest AG that we have an item 12(4) which would read as follows:

A decision to approve or deny approval shall be taken within 30 days of the submission of a completed application.

I do not think it is something too onerous to ask and I would be flexible on the number of days if you felt more days were necessary.

**Mr. Al Rawi:** Madam Chair, I thank the hon. Member for his submission, I understand exactly what the hon. Member was driving at.

To catch what we are actually doing— I mean, I understand the point, you want to make sure there is certainty and a reasonable time frame attached to making a decision, which is spot on. But the understanding of clause 12 has to flow from clause 11 and unfortunately, it is like a flow chart formula.

So clause 12 applies— it is a fork, it is either you are saying yes and then you do certain things, or you say no and you do something. So clause 12(1) is:

“Where the” — RG — “approves an application...” — focus on application for a moment — “he shall within twenty-one days of...” — saying yes, obviously —

- “(a) inform the applicant;
- (b) enter the...name...;
- (c) issue”— the— “Certificate...”

—“whap, yuh done”.

“(2) Where the”— RG— “does not approve...he shall inform the applicant...give reasons in writing... twenty-one days...”

The application comes in clause 11. So clause 11(1):

“Upon receipt of an application under section 8”—because that is where it springs from— “the”— RG— “shall cause...”

—here are the steps now what I meant by flow chart. First step: notice to the world; Faris Al-Rawi is applying to be a real estate agent. That has to run in two newspapers, specify a date. You must do that within the time frame there. So upon cause notice, two newspapers, specify a day. The day shall be no less than the time frame in subclause (3).

So the application comes in 11, when you put the application, it runs for no less than 10 days. After that tenth day, the period of objection is over. If there is no objection, you springboard to clause 12, you fit into 12(1). In 12(1), you know, 21 days, inform, enter, issue.

Go back to clause 11 now. If during the period of objections, you get an objection, then there is a different route that you follow. In the objection, you have to give it to the other person, tell them this objection has come in, they have an opportunity to address it. And then the Registrar must do all of his things in subclause (5) of 11, within 21 days of receipt of the objection. If you have an objection and the Registrar says no, you jump to clause 12(2). And that is where you inform the person there.

So the timeline is mapped out by a combined understanding of clause 11 and clause 12 together. And it in fact follows a formula which we use in the

trademarks division for periods of objection by way of notification, which is where you really get notifications, because the other older companies request— for instance, if you are applying for a company name and it is valid for 25 days, there is no, “Faris has applied for X company limited and somebody has a period to object”.

So this formula has only now come in with non-profit organizations, with these kinds of things, et cetera. So I do understand and agree with the philosophy of my friend from— Dr. Tewarie, but it is caught by way of the understanding of 11 and 12, which you have to really go through two or three times to catch.

**Dr. Tewarie:** But even with your explanation AG, I think you will admit that there is no real certainty of time. Suppose there is no objection, there is no guarantee.

**Mr. Al-Rawi:** But there is a certainty you see—

**Dr. Tewarie:** Huh?

**Mr. Al-Rawi:** So, if I accept—there is a certainty. In the amendment that you have proposed, hon. Member, through you, Madam Chair:

A decision to approve or deny shall be taken—and I know the Member said he is flexible in the language, et cetera—within 30 days of submission of a completed application.

So that 30 days does not work because 11(1)— immediately when you apply you are issued to say “Ay, you have applied, the whole world knows.” You know that they have a maximum of 10 days for objections to come in. In subclause (3), 11(3), within seven days of receipt of an objection, if any comes in, you have to give notice.

The person may, for instance say, “Well, I need more time to comply. I need an extra 10 days,” et cetera, that may amplify the time frame in subclause (4), and then the RG shall within 21 days of receipt of objection—here is where we put the

certainty to decide on the merits. Obviously, from a reasonableness point of view, that could be flexible depending upon any requests made in subclause (3).

So this formula is designed in accordance with other laws that have worked. And the best example is in the trademark objection regime, where you are allowed, upon advertising for the issuance of trademarks, to come back and say you have an objection and then a process follows. So this robust process of trademarking objections is what we used here because the RG's Department is very familiar with the process. So there is certainty in the structure.

**Dr. Tewarie:** AG, with all due respect, I am not convinced. I think this is a real problem in the bureaucracy of the public service and I think the more we can insist on structures and systems to get efficiency and effectiveness, the better it is, rather than leave it to the whim or will of an individual. And I do not think this is a hard thing to concede. I mean, all of us will be better off for it.

**Mr. Al-Rawi:** Madam Chair, it is not that—

**Dr. Tewarie:** I am flexible on the days like I said. If you say 45 days, I am fine.

**Madam Chairman:** All right, so I would allow Attorney General to respond and if there is no agreement, then I would put the question.

**Mr. Al-Rawi:** Sure, I want to assure my friend, my learned colleague, this is not that I do not want to take your position, I think it is reasonable. It is that accepting in the way that it is put, or even in a slight version, will not make sense of the iterations of possibilities. That is the first point. Secondly, the Member hits a very important point which is the public service efficiency. I can tell you, Madam Chair, by the month of June, all things being equal, we will be doing all of this online with no physical documents.

In fact, I have drafted already, the amendment in law to cause that to happen again. I gave notice in the miscellaneous provisions Bills that we just did last week, saying that we were there and that is because, Madam Chair, the AG's

Office has spent five years digitizing all of our records and building out brand systems which are up and running. We are testing them right now, we have migrated all the data, both for the Land Registry and for the Companies Registry.

So the certainty of time frame is going to go exponentially faster right now. So I understand the Member's concern but that was the old Trinidad and Tobago; that is not this Government Trinidad and Tobago. We are in a different stratosphere right now.

**Madam Chairman:** Okay, Member for Caroni Central, so I will put the question into the amendment.

**Dr. Tewarie:** Yeah, I will hold to the amendment. I am sure they would vote against it.

**Madam Chairman:** Hon. Member, the question is that clause 12 be amended as circulated by the Member for Caroni Central.

*Question, on amendment, [Dr. B. Tewarie] put and negatived.*

*Question put and agreed to.*

*Clause 12 ordered to stand part of this Bill.*

*Clause 13.*

*Question proposed:* That clause 13 stand part of the Bill.

**Madam Chairman:** Member for Caroni Central.

**Dr. Tewarie:** 13.

**Madam Chairman:** 13, you have an amendment.

**Dr. Tewarie:** Yes. AG, I think you will understand this because I think this was also raised by AREA. There is in this Bill, the issue of registration, on the one hand, and licensing on the other—

**Mr. Al-Rawi:** Yeah.

**Dr. Tewarie:**—and what— The question is whether registration, which requires you to do that periodically—sorry, licensing which requires periodic renewal and registration should be treated in the same way?

So for instance in certain professions you simply register, you become a member and that is updated and I know in the legislation here later down, there is provision for the updating to the Registrar General of any changes. So, I thought that “registration and” was a little redundant. That is not something I am going to fight if you wish to retain it, but I think it makes sense to distinguish between registration and—

**Mr. Al-Rawi:**—licensing.

**Dr. Tewarie:**—licensing. And in (4)(k), what I am suggesting is that— 13(4)(k)— what I am suggesting is that— this was also raised by AREA, the list of sales associates I think was left out.

**Mr. Al-Rawi:** Yeah.

**Dr. Tewarie:** So I am just asking for their inclusion.

**Mr. Al-Rawi:** Sure, sure. I appreciate it. May I, Madam Chair? So, I understand why the hon. Member would have made the suggestion for (3)(g) for the deletion of the words “registration and”. If I could just explain why we put it in.

Because registration can happen in number of ways, initial registration, re-registration or strike-off on fresh application, we had to contemplate the iterations in the formula. Because this formula has to apply to everyone, if you are a registrant, a re-registrant or a struck-off and fresh registration. So that is why we put registration and licence. So we could capture that point, albeit that the licensing regime is only applicable to broker and brokerages. The licensing regime does not apply to sales associates. And let me explain why. We did not want to put people who did not want to ever touch other people's money but who wanted to be real estate agents through the hassle of licensing.

So that would be unfair to the single mother, or single father or small entity who said, “Look, I do not want to go through this brokerage course. I do not want to have an escrow account. I do not want liability for nobody money.” Now, that does not mean that sales associates have to work with brokers, because all that the broker does is hold client monies.

So I want to say this to the population, through you, because I know that many people are keenly listening to this. You do not need to give up part of your commission to a broker. You do not need to work with a broker. An attorney-at-law who has to do the transaction for you, they can hold the money. A bank who is acting as a stakeholder or a deposit holder, they can hold the money. The arrangement of stakeholding and escrow arrangements are separate. So I want to assure the small businessman, real estate person, you do not need to be registered as a broker because you are not handling client money, nor do you need to fall under the umbrella of a broker and share your slice of the cake with her or him.

With respect to the list of sales associates, because all sales associates will mandatorily be caught by this legislation and have to register, because unless they are brokers, they are going to be sales associates, they are all going to be there. But we did not want to “freeze in time”, the transaction. I can tell you what is about to come.

In the registration of deeds and other aspects, we are going to capture the information of the sales associates on the deed by reference to the Board of Inland Revenue number. So I can tell you that I have drafted a unique identification Bill where all of your information is harmonized in one number. Birth certificate, marriage certificate, your passport, your ID card, everything is one number. A unique identification number and it includes residents and non-nationals as well.

So we have that Bill ready. I can tell you the Prime Minister and the Cabinet have approved already an arrangement with the Government of Estonia, which is

one of the leading countries in the world for e-commerce and structures. That is going on, but we have taken the steps to do this, why? Because we have already digitized all of the information, licensing, passports, births, deaths, marriages, deeds.

So we spent five years digitizing Trinidad. So inclusion of a list of sales associates would not capture the best purpose because those sales associates may go from transaction to transaction elsewhere or may be registered under other agencies as well. So I respectfully decline the invitation but catch the concept that tell you that they are registered as sales associates by the mere fact of being in the industry.

**Dr. Tewarie:** Okay, I have no response to it.

**Madam Chairman:** Are you still standing by your amendments or you are withdrawing it?

**Dr. Tewarie:** No, I mean, I take the—if the AG insists of the connection between registration and licensing then—I understand the simple explanation of the list of sales associates but if he sticks with the registration and licensing, I said that I would not fight that and therefore. I will also withdraw 17(1) and (2), the deletion of that which relates to that.

**6.35 p.m.**

**Madam Chairman:** Okay, so if I understand you, and Member for Caroni Central, you are withdrawing your proposed amendments for clause 13, and you are giving me notice that you are also going to withdraw the proposed—

**Dr. Tewarie:** 17.

**Madam Chairman:** Okay, thank you very much.

**Dr. Tewarie:** 17, because they are connected.

**Madam Chairman:** Okay.

**Dr. Tewarie:** They are related.

**Madam Chairman:** Thank you very much.

*Question put and agreed to.*

*Clause 13 ordered to stand part of the Bill.*

*Clause 14.*

*Question proposed:* That clause 14 stand part of the Bill.

Insert after the word “containing”, the words “any information submitted in an AML/CFT/PF risk assessment questionnaire referred to in section 8 and any”.

**Mr. Al-Rawi:** Madam Chair, out of the need to ensure that the private register keeps specific things private, we must amend clause 14 by specifically stating that the AML/CFT/PF risk assessment questionnaire should never be made public. That is for private purposes for the FIU, and other entities, law enforcement, et cetera, so that is the rationale for the amendment to clause 14, to keep it strictly private.

*Question put and agreed to.*

*Clause 14, as amended, ordered to stand part of the Bill.*

*Clause 15.*

*Question proposed:* That clause 15 stand part of the Bill.

15(2)(b) Insert after the word “containing”, the words “any information submitted in an AML/CFT/PF risk assessment questionnaire referred to in section 6 and”.

**Mr. Al-Rawi:** Madam Chair, we propose the same rationale for the secrecy of the AML/CFT questionnaire, it is the same rationale for clause 15, to make sure that that stays strictly private as a private aspect of the register and not the public aspect.

*Question put and agreed to.*

*Clause 15, as amended, ordered to stand part of the Bill.*

*Clause 16.*

*Question proposed:* That clause 16 stand part of the Bill.

- A. In subclause (3), insert after the words “extract from the”, the word “public”.
- B. In subclause (5), insert after the word “licence”, the words “or in an AML/CFT/PF risk assessment questionnaire referred to in section 6 or 8,”.

**Mr. Al-Rawi:** Madam Chair, clause 16 is where you have the custody and access to the register. It was important for us to tidy that up a bit to say that the RG would only give certified copies for the public register. So in subclause (3), for instance, you are looking at the word, “public” to be inserted in that clause, because as it reads right now you could pay and get both the public and private which is not the intention, it should be just the public. The supervisory authority, et cetera, has the access under subclause (4), so we have taken care of that. In subclause (5) we are saying after the word “licence” we are also putting in the words, “or in an AML/CFT/PF risk assessment questionnaire”. This keeps it in conformity with what we did previously, which is to maintain the secrecy and confidentiality of that questionnaire so that the public is protected by only having the supervisory authorities have access to that and not the general public.

**Madam Chairman:** Thank you.

*Question put and agreed to.*

*Clause 16, as amended, ordered to stand part of the Bill.*

*Clauses 17 to 19 ordered to stand part of the Bill.*

*Clause 20.*

*Question proposed:* That clause 20 stand part of the Bill.

20(1) A. Delete the word “or” at the end of paragraph (a).

B. Delete the period after paragraph (b) and substitute a semicolon.

C. Insert the following new paragraphs:

“(c) the Committee has given notification that a licence has been revoked; or

(d) the real estate agent no longer qualifies for registration under section 10.”

**Mr. Al-Rawi:** Madam Chair, we are proposing that we improve clause 20. Clause 20 is surrender, cancellation and registration, and here is where the RG shall cancel the certificate in certain circumstances, if you surrendered it, if you died. What was missing from that is where the committee has revoked, and therefore instructed the Registrar that the committee has taken a decision to revoke, obviously the Registrar has to do something upon that, so here is to allow the power for the RG to do that. And obviously, if you no longer meet the muster or qualification under clause 10 then a similar effect has to happen. So, it is to broaden the circumstances of the RG acting, to give her or him the legislative springboard to do that.

*Question put and agreed to.*

*Clause 20, as amended, ordered to stand part of the Bill.*

*Clause 21 ordered to stand part of the Bill.*

*Clause 22.*

*Question proposed:* That clause 22 stand part of the Bill.

22(2)(a)(i) A. Insert after the word “who”, the words “is a broker and”.

B. Delete the word “and” at the end of the subparagraph (i).

22(2)(a)(ii) A. Renumber the original subparagraph (ii) as subparagraph (iii).

B. Insert the following new subparagraph (ii):

“(ii) one member who has at least five years’ experience in real estate business; and”.

**Mr. Al-Rawi:** Madam Chair, coming out of our consultations with AREA and with the TTREA, there was a recommendation that we add a broker into this board. So here is where we are doing the Real Estate Agents Association, and the members of the board shall comprise, and what we want to do is to ensure that we have a broker as part of that association in addition to the other members described in the legislation being finance and real estate. So, we are inserting the words “who is a broker” into the first part of 22(a)(i) and then we are deleting the word “and”, and then we are going to add in into 28(2) Roman A(ii), we are going to insert a new clause, “one member who has at least five years’ experience in real estate business”.

So what you are going to have effectively under subparagraph (a) is three Roman numerals, 1(i), (ii) and (iii). (i) would be “a member who has at least five years’ experience in real estate and is a broker”; (ii) would be “a member who has at least five years’ experience in the real estate business”; and (iii) would be “a member who has at least five years’ experience in finance.” And that therefore makes sense. The stakeholder said look, you need to at least have a broker mandatorily in that as a skill set, and we agreed with that.

*Question put and agreed to.*

*Clause 22, as amended, ordered to stand part of the Bill.*

*Clauses 23 to 31 ordered to stand part of the Bill.*

*Clause 32.*

*Question proposed:* That clause 32 stand part of the Bill.

32(1)(a) Insert after the word “renewal”, the word “, revocation”.

32(1)(b) Insert after the word “renewal”, the word “, revocation”.

**Mr. Al-Rawi:** Madam Chair, we needed to insert the capacity of the committee to revoke, because a revoke is beyond issue renewal or cancel, because you may have a revocation which is not a cancellation. So it is simply to add in the world

“revocation” both into subparagraphs (1)(a) and (1)(b). That is 32(1)(a) and (1)(b).

*Question put and agreed to.*

*Clause 32, as amended, ordered to stand part of the Bill.*

*Clauses 33 to 39 ordered to stand part of the Bill.*

*Clause 40.*

*Question proposed:* That clause 40 stand part of the Bill.

40(4) Delete the word “each” and substitute the word “one”.

40(5)(b)(ii) Delete the words “two directors who are brokers” and substitute the words “one director who is a broker”.

40(5)(c)(ii) Delete the words “two partners who are brokers” and substitute the words “one partner who is a broker”.

**Mr. Al-Rawi:** Madam Chair, in 40 subclause (4), we are saying that we should delete the word “each” and substitute the word “one”. So where an application for a license is being made on behalf of a company or partnership, that application must be signed by two directors or two partners, as the case may be, each of whom must be the holder of a valid license. What we are saying, one of whom. So if you take of “each” you would instead have “one”. And the point was made to us by TTREA that many of the small entities do not have two people. It is just a one-man show with associates, and that was, of course, a very powerful submission. So I thank the TTREA for making that submission to us. I understand that the hon. Member, Dr. Tewarie, probably has a submission.

**Madam Chairman:** Caroni Central, I believe you have a proposed amendment with respect to clause 40. Is it a new clause you are proposing?

**Dr. Tewarie:** Yes, in clause 40 I am proposing a similar amendment about time for this one.

**Madam Chairman:** Also you are proposing a new subclause, included?

**Dr. Tewarie:** Yes. You wanted me to speak to the Attorney General’s?

**Mr. Al-Rawi:** Sure.

**Madam Chairman:** Sorry. I am sorry.

**Dr. Tewarie:** No, I understand him and I think I am pretty clear.

**Madam Chairman:** Okay, so I would speak to your proposed amendment.

**Dr. Tewarie:** Yes, I have a proposed amendment, are you ready for that or not?

**Madam Chairman:** Yes, that is it.

**Dr. Tewarie:** What I am proposing here is the process of licensing shall be executed by the authority within 30 days of an application being received. Again, it is the same principle. You have a process, there is a time limit, you get the job done.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** I understand the hon. Member's submission. We sought to capture the process with certainty, I want to say with flexible certainty, because there are different formulae that apply, in clauses 41 and 42, which effectively replicate the provision for licensing. In clause 41, we allow for the application to be made, the process of objection, the certainty of time frames for giving notice that the objection has been given, i.e. the fair party treatment, the fair hearing treatment, and then the process of—obviously, advertising comes before that, the response mechanism within 21 days, and then you must make a decision. In 42, we bifurcate the response. If you agree, then there is the certainty of time frame there, and if you do not agree then there is also the certainty of time frame there, both with respect to licensing and registration. Of course, if you get an objection or you are aggrieved by any aspect, you have the right to go to the court. So whilst I understand the formula, the new clause 40 proposed by the hon. Member is captured in the working mechanisms of clauses 41 and 42 of the Bill as structured.

**Madam Chairman:** Caroni Central.

**Dr. Tewarie:** Now again I would say that while there is a process here that is

outlined there is no definitiveness, there is no certainty that a matter will be dealt with in so many days or such and such amount of time, but only in relation to the processes identified, and because of that I feel I must hold it. I have a feeling that some of these things, specifically this issue, for both issues that I raised, are going to come back to haunt us.

**Madam Chairman:** Attorney General, I believe you have some other amendments to clause 40, I will take them straight through.

**Mr. Al-Rawi:** Yes, Madam Chair, so I dealt with 40(4). In 5(b), 5(c)—right, what we are doing in 40 in the other subsections, we are deleting the words “two directors who are brokers” and substituting “one who is a broker”, and in 5(c)(ii), “two partners who are brokers” and substituting “one partner who is a broker”, for the same rationale made to us by the TTREA, that you may have a brokerage with just one person in it. A broker with one person and associates working and that therefore they just simply did not qualify because they would have to go out and find somebody else who is a broker, and they just wanted it to be a one-man show. So, those are the reasons for the amendments to clause 40 as circulated.

**Madam Chairman:** Okay. So, I would first put the amendments proposed by the Member for Caroni Central.

**Mr. Al-Rawi:** Madam Chair, sorry. I understood the Member’s question to be relevant to clause 41, but in any event to be a new clause, which technically comes at the end of our fulminations, I did not think that the Member, now that I have heard what the hon. Member has said, was causing an amendment to clause 40, in which case there is only one amendment before you, which is the one which I have circulated.

**Madam Chairman:** Well, maybe the Members—I should allow the Member an opportunity to clarify.

**Mr. Al-Rawi:** Sure. Yes, please.

**Madam Chairman:** I really think that it was a subclause that he was asking to be added.

**Dr. Tewarie:** Here it is. It is a subclause under 40. I think what happened in the typing that it was left out.

**Mr. Al-Rawi:** Oh, I see. I apologize.

**Madam Chairman:** It would be a subclause to clause 40. Yes?

**Mr. Al-Rawi:** Apologies.

**Dr. Tewarie:** Okay.

**Madam Chairman:** So, just for clarification I would put the amendment as proposed by the Member for Caroni Central and then the amendments proposed by the Attorney General.

**Mr. Al-Rawi:** Yes, Ma'am.

*Question, on amendment, [Dr. B. Tewarie] put and negatived.*

*Question, on amendment [Mr. F. Al-Rawi] put and agreed to.*

*Question put and agreed to.*

*Clause 40, as amended, ordered stand part of the Bill.*

*Clauses 41 to 53 ordered to stand part of the Bill.*

*Clause 54.*

*Question proposed:* That clause 54 stand part of the Bill.

54(1) A. Delete the word "and" at the end of paragraph (b).

B. In paragraph (c) delete the word "three" and substitute the word "two".

C. Delete the full stop at the end of paragraph (c) and substitute the words "; and".

D. Insert the following paragraph:

“(d) one broker with at least five years’ experience.”

**Mr. Al-Rawi:** Madam Chair, we are proposing again because of submissions

coming to us from AREA this time, the Association for Real Estate Agents, that one incorporated by an of Act of Parliament. AREA made the recommendation to us that the disciplinary committee should have the benefit of a broker being on that entity, the DC, the disciplinary committee itself. In those circumstances we thank them for the recommendation and propose that we modify the composition, the de minimis composition of members to include a person who has at least five years brokerage. One broker with at least five years' experience by inserting a new subclause (d), so that would be 54(1) new (d) in turn circulated.

*Question put and agreed to.*

*Question 54, as amended, ordered to stand part of the Bill.*

**Madam Chairman:** Member for Caroni Central.

**Dr. Tewarie:** This is not an amendment, I just want to ask the AG—I have no more amendments. I just want to ask the AG a question. All these issues relating to disciplinary considerations and so on, and we have been mentioning in the Bill, of course, of a code of conduct. We have those things in the Bill?

**Mr. Al-Rawi:** So, we do not have the code of conduct yet, and that is because we want to draft it in coordination with the relative agent. We have a draft ourselves, but I have not had the opportunity to circulate that amongst their membership, and really and truly we wanted to have the stakeholders themselves agree. Because the versions of code of conduct that we found come from other jurisdictions that do not marry our real experience, so we wanted to bring them on the table. In fact with the formation of the TTREA we now have over 200 members represented, and they formed themselves very commendably on account of this Bill coming to the front. They took the initiative, and I compliment them for that, just like AREA has. So, we would settle the code of conduct in conjunction with the practitioners, and we intend to do that with immediacy. Okay?

**Dr. Tewarie:** Okay.

*Clauses 55 to 82 ordered to stand part of the Bill.*

*Clause 83.*

*Question proposed:* That clause 83 stand part of the Bill.

Delete section 83 and substitute the following:

“83. (1) A person who engaged in the business of a sales associate immediately before the coming into force of this Act may continue to engage in the business of a sales associate, without being registered under Part III, for a period of twelve months from the date of commencement of this Act or such longer period as the Minister may, by Order, determine.

(2) A person who engaged in the business of a broker immediately before the coming into force of this Act may continue to engage in the business of a broker without -

- (a) being registered under Part III; or
- (b) being the holder of a licence,

for a period of eighteen months from the date of commencement of this Act.”

**Mr. Al-Rawi:** Madam Chair, we are proposing again, thanks to the consultation that we have had with the industry, that we put the transitional provisions in a more careful way. We are recommending that there is a 12-month period for people who are sales associate to bring themselves unto the register, but we are saying that 12-month period can be adjusted by way of Order. In other words, then the time can be extended. It could never be retracted or made smaller, because we will be taking a legitimate expectation problem unto our hands and we would obviously not do that. So we would be lengthening the period if anything at all. Secondly, what we are doing with respect to a broker, is we are giving them 18 months for the period of coming into force of the Act. I think we are missing some words here. Yes, Ma'am, we are in subclause (2):

“A person who engaged in the business of a broker immediately before the coming into force may continue to engage in the business, (a) and (b), for a period of 18 months from the commencement of this Act”—before the full stop, Madam Chair, if you could put in the same words at 83(1), “or such longer period as the Minister may by Order determine.”

I apologize.

And, again, that is with a view to extension. Now, Madam Chair, I am aware, and we want to go to the agencies that offer these courses for the certification, and I actually want to take on board some of what the hon. Caroni East has said about learnt qualifications, et cetera, I think that there was a very interesting submission coming from the Member, so we would be giving the flexibility to, once we check the capacity for qualification, because remember these brokers have to have qualifications, what those qualifications are, and the capacity, that period of 18 months is likely to be amended. Okay? So, that is the rationale for the new 83, moving what we have there and putting this other one.

**Madam Chairman:** Member for Caroni Central.

**Dr. Tewarie:** No, I am fine, Madam Chairman.

**Madam Chairman:** You are okay? All right. So, the question is that clause 83 be amended as circulated and further amended to delete in subclause (2) the full stop after “Act” and to include the words, “or such longer period as the Minister may, by Order, determine.”

*Question put and agreed to.*

*Clause 83, as amended, ordered to stand part of the Bill.*

*First Schedule.*

*Question proposed:* That the First Schedule stand part of the Bill.

Part A

Paragraph (14) Delete the word “Seven” and substitute the word “Five”.

**Mr. Al-Rawi:** Madam Chair, we had a recommendation coming from the industry that they felt that the quorum of seven was a little too high, and therefore we have sought to adjust the quorum to five instead of seven. And that is in Schedule, Part A, which treats with the constitution of the association, if we go down to the quorum of the board, 14, which is on page 43, I apologize, it should be circulated as my reading in paragraph 14. Right? So sorry, those on the other side, I apologize, I was not looking, so it is at paragraph 14 and that we substitute “Seven” with “Five”.

*Question put and agreed to.*

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

*Second and Third Schedules ordered to stand part of the Bill.*

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

*House resumed.*

**Madam Speaker:** Attorney General.

**Hon. F. Al-Rawi:** Thank you, Madam Speaker. Madam Speaker, I wish to report that the Real Estate Agents Bill, 2020 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.*

**7.05 p.m.**

### **ARRANGEMENT OF BUSINESS**

**The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis):** Madam Speaker, is it possible for us to do the Senate Amendments on the Administration of Justice (Electronic Monitoring) (Amdt.) Bill, 2020, please? [*Crosstalk*]

**Madam Speaker:** Hon. Attorney General.

**ADMINISTRATION OF JUSTICE (ELECTRONIC MONITORING)**

**(AMDT.) BILL, 2020**

**Senate Amendments**

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam Speaker. I do this on behalf of my colleague, the Minister of National Security, only because I wrapped up the Bill in the Senate as we went ahead. Madam Speaker, I beg to move the following Motion standing in my name:

*Be it resolved* that the Senate amendments to the Administration of Justice (Electronic Monitoring (Amdt.) Bill, 2020 listed in the Appendix be now considered.

*Question proposed.*

*Question put and agreed to.*

**Madam Speaker:** May I ask in terms of proceeding if there has been discussion with the acting Chief Whip? Okay, so do we take these individually or do we take them en bloc? [*Crosstalk*] Okay. So Clerk we will take them all as one.

*Clause 4.* Delete subparagraph (a)(iii) and substitute the following:

By deleting the definition of “Court” and substituting the following definition.

“Court” means a Judge, Master, District, Court Judge, Magistrate, Registrar, Senior Magistracy, Registrar and Clerk of the Court, Magistracy Registrar and Clerk of the Court or Coroner as applicable.

*Clause 7.* In the proposed section 8(1) insert after the word “function” the words “or as required by law”.

*Clause 10.* In paragraph (b), in the proposed subsection (2) delete the words, “and where necessary, the person shall be committed to

appropriate custody while awaiting the report”.

*Clause 14.* In subparagraph (a) in the proposed subsection (1A) delete the words, “is negligent and” and substitute the words, “wilfully or recklessly”.

*Clause 16.* In paragraph (b) in the proposed subsection (2A) delete the words, “the Court in writing” and substitute the words, “in writing the Court and any other person affected by or having an interest in the change in circumstances”.

*Clause 25.* In the proposed Fourth Schedule delete the words, “Director/Manager, Electronic Monitoring Unit” and substitute the words, “Justice of the Peace”.

**Madam Speaker:** Attorney General.

**Mr. Al-Rawi:** Thank you, Madam Speaker, and I thank my colleagues for indulging us at this hour. I would be very quick. In the Senate, Madam Speaker, we had cause to have reflection on this Bill and we received amendments coming in the Senate which we are now bringing before the House, targeting those—let us go immediately to clause 4. We are proposing an amendment to the definition of “court” simply because through inadvertence we had omitted one of the creatures of law being the Senior Magistracy Registrar and Clerk of the Court. So we are just simply adding that person in so that we can capture the amendments that we took into by the Criminal Division creation of those categories.

With respect to clause 7, in clause 7 we are proposing an amendment to section 8 of the Act. That section is the confidentiality of information. And what we are saying is that every employee should keep secret this material and that it is so in the course of his exercise or in the function of his positions he is bound to keep it secret save that he is required by law also to do that. So we want to make sure that it is not only by virtue of your function but if there is a requirement of law

that we add in that obligation as well. Just keeping it to the court, trying to catch all of the measure by which this obligation is to bound and managed as well.

In clause 10 we are proposing, Madam Speaker, that we adjust section 11 of the Act. And in section 11 we were including for the first time that before making a decision under subsection (1):

“a report shall be requested from the Director concerning the person, which the Director shall cause to be provided as soon as practicable...”—et cetera.

This was specifically in the context of the exercise of mercy, the power of mercy, et cetera, pardon. Because this concept of pardon could be that you are seeking a pardon whilst you are not in custody. In other words then, you may have already served your sentence, you are out but you just do not want the conviction on your record. In those circumstances, you are not necessarily in custody.

So including the words “the person shall be committed to appropriate custody while awaiting the report” did not make sense because somebody may be outside in liberty and you did not want to have an argument with that person who has already served a sentence, et cetera, and who still has a conviction on his record and once a pardon should be re-admitted into custody. So we are removing that language even though it came from section 12 (2) of the existing Act.

The next one that we looked at, Madam Speaker, is in the context of clause 14. We are seeking to add the words, “wilfully or recklessly”. Clause 14 treats with the insertions of negligence. We are putting a civil obligation that people who received the electronic monitoring unit should be liable in negligence if they damage the unit. But negligence was respectfully too low a threshold and therefore we have sought to qualify the mental intention by including the words “wilfully or recklessly” so that a much higher standard is observed in this particular progress so that people are not just lightly brought into the liability of the cost of the device, et cetera.

The next one that we looked at is clause 16, where we proposed that we delete the words, “the Court in writing” and substitute the words, “in writing the Court and any other person affected by or having an interest in the change of circumstance”.

So clause 16 treats with an amendment to section 19 of the Act. And here is where we are putting the obligation in the new subsection that if there was a change in circumstance in the person who is being monitored that you should not only tell the court but everybody else who has an interest in the change in circumstance. So somebody is wearing an electronic monitoring unit, their house burned down, something happened to them, they had to move, the virtual complainant who is in a domestic violence setting, for example, or the Children’s Authority, or anybody else in that structured arrangement should also be given actual notice of the change in circumstance and therefore that is the reason for that particular amendment.

The last one we do is in clause 25. In clause 25 we had a recommendation coming that the affirmation or the taking of the oath should be done in the presence of a Justice of the Peace. We agreed with that submission even though the Oaths Act says that you take an oath before somebody who has the authority to take an oath or by consent. So if I consent to take an oath with the Member for San Juan/Barataria then he can lawfully take that oath. That is in the Oaths Act. But insofar as this oath was of a slightly larger importance, we thought it prudent to accept the recommendation to take that oath before a Justice of the Peace. Those are the reasons for the proposed amendments and I beg to move.

*Question proposed.*

**Mr. Al-Rawi:** I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

*Question put and agreed to.*

**ADJOURNMENT**

**The Minister of Social Development and Family Services (Hon. Camille Robinson-Regis):** Thank you very kindly, Madam Speaker, and thank you to my colleagues for that indulgence. Madam Speaker, I beg to move that this House do now adjourn to Friday the 15<sup>th</sup> day of May, 2020, at 1.30 p.m. Madam Speaker, on that day we will continue debate on the Motion of the Joint Select Committee appointed to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 7.11 p.m.*