

*Leave of Absence**Friday, October 05, 2001***HOUSE OF REPRESENTATIVES***Friday, October 05, 2001*

The House met at 1.35 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE****Mr. Speaker:** Can I have quiet in the public gallery please?

Hon. Members, I have received correspondence from the hon. Prime Minister informing me that the Minister of Education, Human Development, Youth and Culture is Leader of Government Business in the House of Representatives. [*Desk thumping*]

I have also received correspondence from Members for leave of absence from the House of Representatives as follows: the Member for Port of Spain South for the period Sunday, September 30—Wednesday, October 09, 2001; the Member for Port of Spain North/St. Ann's West, from October 01—October 31, 2001. Leave of absence for those Members has been granted.

ORAL ANSWER TO QUESTION

The following question stood on the Order Paper in the name of Mr. John Rahael (Port of Spain North/St. Ann's West):

**MV Beauport
(Leasing)**

- 47.** Would the Minister of Transport and Minister for Tourism and Tobago Affairs provide the figures for:
- (a) The leasing of the MV Beauport for the period November 2000 to May 2001; providing the cost per day?
 - (b) The leasing of the MV Beauport for the period June 2001 to May 2002; providing the cost per day?

Mr. Kenneth Valley (*Diego Martin Central*): I ask that Question No. 47 be deferred for one month.

Mr. Speaker: Leader of Government Business, what is your wish as far as that is concerned?

Hon. G. Singh: Mr. Speaker, we will adhere to the request.

Question, by leave, deferred.

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BAILIFFS (AMDT.) BILL

Bill to amend the Bailiffs Act, 2000 [*The Attorney General and Minister of Legal Affairs*]; read the first time.

Motion made, That the next stage be taken at a later stage of the proceedings.
[*Hon. K. Persad-Bissessar*]

Question put and agreed to.

OLD AGE PENSIONS (AMDT.) BILL

Bill to amend the Old Age Pensions Act, Chap. 32:02 [*The Minister of Community Empowerment, Sport and Consumer Affairs*]; read the first time.

PUBLIC ASSISTANCE (AMDT.) BILL

Bill to amend the Public Assistance Act, Chap. 32:03 [*The Minister of Community Empowerment, Sport and Consumer Affairs*]; read the first time.

BAILIFFS (AMDT.) BILL

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move,

That a Bill to amend the Bailiffs Act be now read a second time.

You may recall that in this honourable Chamber, the Government passed the Bailiffs Act, No. 58 of 2000, which came into force by proclamation on June 30, 2001. The intent of the Bailiffs Act is to rationalize the operation of bailiffs by establishing a regulatory framework to govern the licensing of bailiffs in this country. The Act outlined their functions and duties in an effort to settle, once and for all, what functions may be carried out by bailiffs.

This Act now puts the law, with respect to bailiffs, on par with the law in other jurisdictions which have reformed their law to standardize the licensing and operation of bailiffs. The Act was a direct result of a Working Paper entitled “The Law Governing the Conduct of Bailiffs”, a case reform prepared by the Law Reform Commission.

The need for this reform was because of the volume of complaints made by members of the public concerning the conduct of bailiffs. The analysis that was undertaken by the Law Commission revealed that the problems in this area stemmed directly from the failure of the law to provide proper regulation and control over the activities of bailiffs. Moreover, the existing law, before this Act became law, was disjointed and complex and it created an environment which

allowed bailiffs, in particular the private bailiffs, to carry out their functions in a very unregulated manner.

The paper recommended the enactment of comprehensive legislation to govern private and court bailiffs alike. Government accepted the recommendations of the Law Commission and, as you may recall, the result was the Bailiffs Act, 2000. In our jurisdiction, bailiffs operate within and under two separate pieces of legislation. The first of these is the Landlord and Tenant Ordinance and the Petty Civil Courts Act. Those bailiffs certified under the Landlord and Tenant Ordinance are referred to as “certified private bailiffs” and are charged with the responsibility of assisting landlords in levying distress for arrears of rent. They are issued an annual licence by a magistrate.

On the other hand, those bailiffs who find their authority in the Petty Civil Courts Act operate as functionaries of the court, serving documents and assisting in the execution of judgments. These are referred to as “court bailiffs” and they are members of the public service; so there are those within the public service and those who are private bailiffs. Those under the public service are governed by the Public Service Commission regulations.

Whilst there are guidelines to define the conduct of the court bailiffs who are subject to the authority of the court, there were no similar provisions with respect to the private bailiffs. Thus, the Act of 2000 sought to regulate the activities of private bailiffs by providing a system of licensing and a system of registration. So, for example, sections 4 to 8 of that Act addressed the registration and licensing of the private bailiffs.

Section 4 imposed upon the Registrar of the Supreme Court the responsibility of keeping a register of bailiffs which would be accessible to members of the public during working hours. There was to be no cost attached to this inspection of the register, which would provide separate listing for public service bailiffs and private bailiffs. All persons operating as bailiffs will be required to be registered with the Registrar of the Supreme Court and this requirement can be found in section 5 of that Act.

In order to qualify for registration, a person would have to show that he or she is of good character and is employed as a bailiff or has been offered a contract to operate as a bailiff.

Sections 6 and 7 dealt with the issuance of a licence subsequent to registration and with the suspension or cancellation of a licence, respectively.

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Section 6 provided for the issuance of a licence to persons whose names are entered in the Register of Bailiffs upon the payment of a prescribed fee and the provision of the necessary security. This requirement does not apply to the public service bailiffs. The licence would facilitate the verification of the identification of persons claiming to be bailiffs. Mr. Speaker, I am sure that members of the public would find this exceedingly useful, because licences issued by the Registrar would be valid for two years unless, of course, for some reason they would have to be suspended or cancelled.

Additionally, in an effort to bring the names of licensed bailiffs to the notice of members of the public, section 6 of the Act imposed an obligation on the Registrar to publish, twice a year, a list of persons holding valid licences. This is to be published, not only in the *Gazette*, but also in two daily newspapers, so that all members of the public would know, at any point in time, who are the licensed bailiffs of the country.

The power, Mr. Speaker, to suspend or cancel a licence issued under the Act, is also conferred upon the Registrar by section 7. In respect of a public service bailiff, the Registrar would exercise that power on the advice of the Public Service Commission. The Registrar would exercise that power after conducting an enquiry into allegations of misconduct, including incompetence or irresponsibility. Where necessary then, the Registrar may suspend the licence of a bailiff pending the outcome of any Enquiry.

Should a person purport to carry out the functions of a bailiff without the benefit of a valid licence, that person would find that he or she would have committed an offence under section 8 of the Act and that offence would be punishable on summary conviction by a fine and imprisonment.

Section 9 of the Act sets out definitively the functions and duties of bailiffs for the benefit of both the bailiffs and members of the public. Under that section, a bailiff may carry out those functions and only those functions set out in section 9 of the Act. A bailiff may levy execution in accordance with a judgment of a judge of the Petty Civil Court. A bailiff may serve documents from a court of summary jurisdiction. A bailiff may levy tenants' goods for arrears of rent as provided under the Landlord and Tenant Ordinance and a bailiff may repossess goods on hire purchase in accordance with the Hire Purchase Act. So the functions are set out there, definitively under section 9 of the Act.

In addition, the section also imposed several responsibilities on bailiffs as, for example, that they are required to maintain financial records and to have those

records audited annually. Mr. Speaker, the benefit is very obvious. The Registrar may require a bailiff to furnish the Registrar with a financial statement. These provisions were and are designed to impose upon bailiffs a degree of financial propriety.

It is inevitable that bailiffs gain access to premises. Whether those premises are private dwellings or business premises, bailiffs acquire access in order to carry out their functions. Over time, there have been complaints that citizens cannot be sure that the person seeking to enter their premises are, in fact, who they claim to be. So under section 10, in order to remedy this situation, it is required that a bailiff must identify himself by showing his or her licence to the owner or occupier of the premises which he or she wishes to enter.

The bailiff is also required to furnish the owner or occupier with a form, which is provided for in the Schedule to the Act; so it is provided for by statute. This gives information about the bailiff and the name of the owner or occupier of the premises which that bailiff may be visiting. This requirement, in my respectful view, would be useful as sometimes the bailiff may be at the wrong premises. Once that has been pointed out—much antagonism and even legal action could be prevented had that been issued from the start. The Act also makes provision for lost and stolen licences, a mechanism for dealing with complaints against bailiffs and the right of judicial review.

One of the complaints over time that has been levelled at bailiffs is that they are unaware of their functions and the manner in which those functions should be legally performed. That issue is addressed under section 14 of the Act, which requires that bailiffs attend a training programme organized by the Ministry within the first year of being licensed and thereafter, at least, once in every five years. So a training programme within the first year of obtaining his or her licence and thereafter, at least, once in every five years. Failure to comply with this training programme could result in suspension of the licence of the bailiff.

Section 15 of the Act empowers the President to make regulations prescribing, *inter alia*, a code of conduct for bailiffs, also for the maximum fee chargeable and the security to be required for bailiffs. These regulations have not yet been made. I wish to point out that although section 16 repeals sections 37 and 38(a) and (b) of the Landlord and Tenant Ordinance, such a repeal would not become effective until the regulations are made under section 15. What this means, therefore, is that the magistrate can still issue a licence to a person who wishes to be a bailiff under that ordinance.

In order to ensure that the necessary mechanisms were put in place for registration and licensing of bailiffs, the Ministry appointed a committee in late

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June 2001 comprising a representative from the Supreme Court, the Law Reform Commission, the Office of the Chief Parliamentary Counsel and an administrative officer from the Ministry, to put in place those mechanisms. However, I am advised—I was not there—that during this period of time the committee was unable to put in place all the necessary machinery to implement the Act within the time period.

I am advised further that a draft handbook has been prepared and the regulations under section 15 are being prepared. As to the preparation of the examination and training which are required to facilitate the registration process within the three months of the proclamation of the Act, I am advised that these have not been put in place. Therefore, the Registrar is unable, at this point in time, to register any private sector bailiffs, because they are unable to present the required documentation, that is, the examination results and the training certificate.

Since the three-month period, starting from June 30, 2001, had expired on September 30, 2001, it means that no registration is now possible. There is an urgent need that this period be extended to a reasonable period to facilitate the necessary machinery being put into place. What this means is that from June 30, when the Act was proclaimed, to September 30, there was that period of time within which the bailiffs were to be registered and issued their licences. However, several consequent actions that should have taken place, did not take place, that is, with respect, as I said before, to examination, training and certification.

What this Bill seeks to do now is to extend the period for registration from that date of September 30 to a later date. This Bailiffs (Amdt.) Bill, 2001 proposes to extend that period, instead of being for three months to a period of nine months; so it is an additional six months that is being sought in order to put in place the mechanisms that are necessary to ensure that the bailiffs function in the manner required under the parent Act.

Thus, since we have passed September 30, 2001, it means that any amendment to section 5(2) of the Act, in relation to time, will have to be given a retrospective effect, that is, from today backwards to September 30. It is proposed by the list of amendments, which is being circulated as I speak, to insert a clause 5 to the Bill before the House in order to achieve that objective, to validate the period between September 30 and the present time, until such time that this amendment Bill takes effect.

I also wish to indicate that during the period after September 30, 2001, to the date of commencement of this amending Act, there is need to validate any action

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taken by a bailiff. For the avoidance of doubt, this is a necessary provision where a person may have sought an action against a bailiff on the basis that he was not registered as he should have been under section 5 of the Bailiffs Act, 2000, and he is not so registered, through no fault of his own.

As I pointed out earlier on, all the licences issued by magistrates under section 37 and 38(a) and (b) of the Landlord and Tenant Act are valid and will continue to be valid under the Bailiffs Act, 2000, by virtue of section 16 of that Act. Those licences are issued annually and expire on December 31 of each year. The proposed validation clause, which is clause 5 of our amending Bill as seen in our list of amendments, seeks to remedy any perceived illegality during a specified period because of non-registration only and not all actions which may be illegal by bailiffs, for any other reason. So it is just within that short time frame.

I also wish to advise that the Registrar of the Supreme Court, by letter dated September 17, 2001, indicated:

“Mr. Samraj Harripaul,
Chairman, Committee for
Implementing Bailiffs Act, 2000,
Law Reform Commission,
Fifth Floor,
Cabildo Chambers,
23—27 St. Vincent Street,
Port of Spain.

Dear Sir,

Re: Bailiffs Act, 2000

I refer to the meeting of the Committee for Implementing the Bailiffs Act, 2000 held on 12th July, 2001.

The proposed change to section 3(2) of the Act should reflect the following:

‘This Act does not apply to the Marshal of Trinidad and Tobago, Deputy Marshals, Second Deputy Marshals, or Marshal’s Assistants.’

I wish to confirm that the position of Bailiff is included on the Supreme Court establishment. This position is not covered by the definition in section 3(1) of the Act. It is therefore suggested that the position of ‘Bailiff’ used in the Supreme Court be changed to that of Marshal’s Assistant. This will ensure

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that the term ‘Bailiff’ as defined in the Act applies only to the Bailiff in the Magistrates’ Court.”

And, therefore, only to private Bailiffs.

1.55 p.m.

Mr. Speaker, within the amending Bill, we have included a provision to take into account the information and advice coming from the Registrar of the Supreme Court and what that does is to clean up, in a sense, an error that had previously been made in the amending Act of 2000. And so, section 3(2) of the Act of 2000 which refers to a marshal of the Supreme Court is inaccurate because there is only one marshal of Trinidad and Tobago and that person is the Registrar of the Supreme Court, and so the Bill seeks to amend section 3(2) to provide that the Act would not apply to the marshal, deputy marshal and marshal assistants, but only to those bailiffs who operate with respect to the Magistrates’ Court.

Mr. Speaker, bailiffs play a very important part and role in the financial life of our country and it is therefore very important that they, like any other citizen, operate within a legal framework that is fair, certain and one without impediments. At the moment this is not the case and, therefore, I look forward to the comments and suggestions of Members and the support of Members for this Bill so that we will be able to correct the problems and issues that I have outlined.

Mr. Speaker, I would say further that a letter coming from the president of the Bailiff Association has given full support for the measures which are before this honourable Chamber.

By letter dated—and if you would give me one moment, I would identify that letter for you, Mr. Speaker, and hon. Members of this House. [*Pause*] I am sorry, Mr. Speaker, but I did receive a letter from the Bailiff Association that is recommending the measures which are before this honourable Chamber and giving support.

Mr. Speaker, by letter dated September 26, 2001, addressed to the hon. Attorney General and Minister of Legal Affairs:

“Dear Sir,

I write to you on matters of great public interest. On the 30th of June 2001 The Bailiff Act 58 of 2000 was proclaimed into law by His Excellency, The President, A.N.R. Robinson. All licenced bailiffs prior to the proclamation of the act had been given a three (3) month period in which to apply for their new licences. This period will expire on the 30th September 2001. At present

there is no mechanism in place to facilitate the issuing of licences under the Bailiff Act 58 of 2001. As a consequence all bailiff employment and functions will come to a halt as of the 30th September 2001.

Section six (6): sub-section two (2) of the said Act identifies the appearance of the new licence as of the 30th September 2001. Section eight (8): sub-sections one (1) and two (2) clearly prevents any person from engaging in business as a bailiff unless he is licensed under this Act and is in possession of his licence. As a result all functions and duties of a bailiff under section nine (9) sub-section one (1) will cease with immediate effect.

If the aforementioned conditions continue great financial and economic problems will arise. In addition, the state will open up itself for companies and individuals to file legal proceedings against it.

We are therefore asking for a further extension of six (6) months under Section five (5) sub-section two (2) for the registration of bailiffs who were employed before the commencement of the act.

Respectfully yours,

/s/ Elroy Weekes
President/Chairman L.R.C.
Bailiff Association of T&T

Mr. Speaker, as we seek the comments of hon. Members of this Chamber and the support of Members for this measure, I wish to point out that the failure to put this mechanism in place to ensure the licensing of the bailiffs will result in tremendous hardship to bailiffs in terms of their functioning and employment as bailiffs, as well as to others who depend on the services of bailiffs under the Landlord and Tenant Act and other pieces of legislation where the private bailiffs function. So they are in a very peculiar position now where they cannot function and any functions that they may carry out would be illegal because of the failure to be registered as prescribed under the Act.

The intentions of the Act were very clear—as I say, it was to set a regulatory framework that would allow members of the public as well as the bailiffs to know what were their functions, what were their duties and who they were, who they are at any point in time.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Thank you very kindly, Mr. Speaker, and hon. Members. Mr. Speaker, I must begin by expressing my absolute disappointment at the Member for Siparia. One would have thought that she, having embarked upon a very short stint as Attorney General, would have been considerably improved in her delivery of the matter before us today.

My disappointment, Mr. Speaker, goes much further than that, of course, but I understand that she has spent a lot of the last few hours crying with a broken heart and that probably, in part, accounts for her very feeble performance here today.

Mr. Speaker, I would have thought that the hon. Attorney General—I am not yet accustomed to calling her that—the Member for Siparia. I would have thought that she would have taken this opportunity to demonstrate to the national community that the passage of laws, or the passage of a law does not necessarily change the culture in which we are set or put. It was in the year 2000 that this Act No. 58 of 2000 was passed after debate in this Chamber. The Member explained that prior to that, the law was complex, the thing was unregulated and she indicated that the passage of the parent legislation was designed to regularize things and settle the difficulties that the practice of the bailiffs brought upon us.

I am sure the Member ought to be aware that the passage of this legislation did no such thing, and I thought she would have taken the opportunity to have the national community understand that, and take this opportunity to explain to the national community, the bailiffs, the Bailiff Association and persons who have been directly afflicted—and I use that word intently—by the unscrupulous activities of some bailiffs in this jurisdiction. I thought she would have taken the opportunity to signal to them the kind of practice that she would like to see in Trinidad and Tobago in respect of this legislation. She has in that regard failed miserably.

Mr. Speaker, the law as it now stands, as I indicated, is embodied in Act 58 of 2000; and in that Act I want to begin by reminding the Minister that in section 15 of the parent legislation a boast was made. In fact, the Act promised that regulations would have been made and passed in this House in respect of this. It is my understanding that no such regulations—in other words, Mr. Speaker, accompanying this legislation there ought to have been a body of regulations detailing the conduct and operations of the elements of the Act and that has not yet been done. But she comes here today to talk about regulations and I thought that having come today, she would have taken the opportunity to bring along a package of regulations. There is no point talking about it, rather than getting the job actually done. The Member is behaving like a loser and while I am on that, I

have been in this honourable House since November 1995 and I was accustomed to seeing a public gallery. Today I saw the Government presented behind them the “Losers’ Gallery” every one of the losers sitting there—[*Desk thumping*—and it is unfortunate that a few of them have left the Chamber, otherwise the media could have had a photograph of them together for posterity. Never again may they have such an opportunity of a “Losers’ Gallery”, but a few are still with us and it was worth noting.

Mr. Speaker, section 5 of the parent Act talks about the fact that the registrar may refuse to register a person as a bailiff unless the registrar is satisfied that the person has complied with section 6(1) and—

- “(a) is of good character;
- (b) is a person over the age of eighteen years;
- (c) was or is employed, or offered a contract of employment, as a bailiff; and
- (d) in the case of a person who is not a public service bailiff, has passed a written examination and an interview which would be conducted by the Ministry...”

What really struck me, as I read the elements of the Act, is the first requirement of good character, and subsection (4) says that has to be evidenced by a police certificate of good character. But I am sure that the Attorney General, the Member for Siparia, would know that there are many people who walk this country with a certificate of good character, but cannot truly be said to be of good character—and they do not have to look far.

Mr. Speaker, it is amazing with this Government. We are trying to regulate the conduct of bailiffs. We want men of truly good character to operate as bailiffs so that the public would not be jeopardized, the administration of justice would be properly effected but, I have noted on the other side that the men who stood up for integrity, dignity, honesty and decency have been demoted. Look at the Member for Naparima, the Member for Couva South, the Member for Oropouche, to a lesser extent my friend from Tunapuna. He boasts of his good, honest conduct and integrity, and he has been demoted. The Member for Chaguanas has been promoted, the Member for Caroni East is now the Leader of Government Business, he has been promoted, and, of course, my good friend from San Fernando West is now closer to the Prime Minister, promoted to the Front Bench. It shows that with the UNC treachery pays. [*Desk thumping*]

Dr. Khan: On a point of order. Standing Order 36(4). [*Interruption*]

Mr. Speaker: Let me just caution Members. If a Member stands up on a point of order, I expect all Members to remain silent. Member for Diego Martin West, you are showing disrespect to the Chair. I am on my feet talking and you are carrying on your personal conversation. I suggest that you refrain from doing that.

What is the point of order?

Dr. Khan: [*Inaudible*] Standing Order 36(4).

Mr. Speaker: I do not interpret what the Member has said as insulting language and, therefore, I will rule that he has not done so and I will allow him to continue. Please proceed, Member.

Mr. F. Hinds: I am most grateful, Mr. Speaker. All I can say to the Member for Barataria/San Juan is that truth hurts. I understand.

Mr. Speaker, I was making the point—

Mr. Speaker: Let me just caution the Member that in his preambing, the opening of his contribution, I allowed him to stray a little. He started debating the Bill and subsequently made reference to some current matters and I allowed it. Well, I am cautioning you that the matter at hand is the debate of the Bailiffs (Amdt.) Bill, 2001 and the Standing Order requires you to limit your statements to this Bill. Please proceed.

Mr. F. Hinds: I am most obliged, I am most grateful, Mr. Speaker. We were talking about bailiffs and the question of repossessing items taken on hire purchase and not paid for. These are the issues that we are discussing here and it reminded me of the fact that the country at the moment is about to repossess good governance—[*Desk thumping*—repossess dignity and integrity. Mr. Speaker, I was just making the point.

Mr. Speaker: Take your seat.

Member, I know it may appear to be funny that when I caution or rule on a particular matter you can put what you may refer to as a technical spin to continue along those lines. Again, let me caution you that you are fooling no one, certainly not the Speaker with that technical spin. I have already cautioned you to deal with the matter at hand and I am asking you to stay along those lines.

Please proceed.

Mr. F. Hinds: Yet again, I am most grateful Mr. Speaker, most grateful.

Mr. Speaker, I was making the point that in section 5 of the parent legislation subsection (3)(a), the question of good character is an issue before us. It is hard to even contemplate this in the face of what is before us, but I am making the point that today in the police service when a young man or woman applies to join the service, they too are expected to be in possession, or to demonstrate a clean record by way of the production of a certificate of good character; but the police service has gone further than that. The defence force does the same thing. They publish a list of the names of the applicants giving members of the public an opportunity to look at those names along with addresses and to comment to the Commissioner of Police through the various station districts on the conduct or the true record of those who would have so applied.

I am suggesting for the benefit of the hon. Member for Siparia in her capacity that we could consider publishing the names of applicants, because bailiffs perform a very important function in the administration of justice; and as I would demonstrate momentarily, they have brought about a tremendous amount of pain and suffering to citizens sometimes because of their own ignorance, sometimes because, like the Government, they are possessed with arrogance, sometimes just downright maliciousness and I will demonstrate that shortly. So I am suggesting that this is an opportunity to take into account the need for publication because the Minister went on to tell us that if someone challenges or wants to challenge the registration of a bailiff they can do so, but that is *ex post facto*, after the fact. It can give members of the public an opportunity to challenge it before—if we would publish the names; and I hope the Member would take that recommendation seriously.

Mr. Speaker, it was in section 6(5) of the parent legislation the Minister alluded to that where she brought it to our attention. It reads:

“The Registrar shall, as soon as practicable after 1st January and 1st July in each year, cause to be published in the *Gazette* and in at least two daily newspapers circulating in Trinidad and Tobago the name of each person who holds, on each of those dates, a valid licence.”

That is the point I am making—after the fact. It should be done before, so that members of the public would have an opportunity to lend their knowledge to those who must register such bailiffs.

2.15 p.m.

Mr. Speaker, section 9 of the parent legislation outlines the functions of bailiffs under this Act. The functions are, in the case of the public service bailiffs;

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(a) to levy execution in accordance with the judgement of the petty civil court; and (b) to serve documents from a court of summary jurisdiction, that is the Magistrates' Court or the Petty Civil Court, in the context of Trinidad and Tobago.

The private bailiffs, those who are not in the public service, their duties are to levy tenants' goods for arrears of rent, as provided under the Landlord and Tenant Ordinance; and secondly, to repossess goods on hire purchase in accordance with the Hire Purchase Act.

Mr. Speaker, it must be within the knowledge of the Attorney General—and there have been numerous complaints from members of the public and the report and the study that was done must have shown that oftentimes the bailiffs go way outside their jurisdiction. There are occasions when the private bailiffs serve documents that they ought not to be serving; there are occasions when they enter people's homes. When I read, for example, the duties and functions of the bailiffs, as I have just done, nothing in those functions allows bailiffs to eject someone from another person's premises or property.

Oftentimes there are situations when a person may be in rental accommodation and the landlord wishes that person out. Sometimes a bailiff turns up but nothing in the law permits the bailiff to toss a citizen's goods outside, put them on the pavement and force the person out of the house. That is the regular—however unfortunate—feature of the landscape in Trinidad and Tobago and the Attorney General must know that. I thought she would have taken this opportunity to signal quite clearly to those who do it, that it is wholly unlawful and that it must stop.

I know of a particular case where recently in an apartment in Maloney Gardens a bailiff, purporting to act on behalf of a landlord, threw all the tenant's belongings on the street, subjecting them to water damage and theft. To compound the issue, when the person sought to go back in, having come home from work late in the evening, the bailiff took a Pit Bull and tied it to the door to debar the tenant from getting in. That is the sort of thing that happens and that matter is being addressed in the right place.

Mr. Speaker, there is before us an amendment that was tabled while the Attorney General was on her legs. In it she explains a new clause 5, which is designed to give retrospective application to the legislation. I can easily understand because the legislation had expired as of June 30 and it caused a panic among the bailiffs and I know this is designed to rectify that. But the Attorney General attached here as well, a new clause 6, a validation clause, and I want the Minister to give some attention to what I must now say.

Of course, the first question is: Why did they not get the legislation in time? Of course, they were busy doing other things. I want the hon. Attorney General—I see she is engaged in close conversation, no doubt about party business—but I want her to take note of a suggestion in terms of this. Mr. Speaker, the amendment she is proposing reads:

“Notwithstanding any law to the contrary, any action taken by a bailiff under this Act from September 30, 2001 to the date of commencement of the Bailiffs (Amdt.) Act, 2001 which may be found to be unlawful due to the non-registration of a bailiff in accordance with section 5 of this Act, is deemed to have been lawfully and validly performed and no legal proceedings whether pending or not shall be entertained in respect of the lawfulness or validity of such action”.

I am suggesting to the hon. Attorney General that she includes in that proposed amendment after the words “bailiff in accordance with section 5 of this Act”, the words “or for any other reason,” and at the end after the word “action” that she includes the words “for the reason of non-registration under section 5 of this Act only”.

I make that suggestion because the amendment that she is proposing is seeking to validate all actions by bailiffs since the expiration of the last authority and if she does that she may be very well validating unlawful acts. So I am suggesting that she be more specific. Again, a case of oversight on the part of the Member of Siparia, but she has been crying a lot and sleeping late. I heard her crying in Fyzabad last night. That is all right, I too feel sorry for her.

Before I come to my conclusion, I also want to suggest to the hon. Attorney General that she must be aware that oftentimes police officers are on the scene. They are taken there with bailiffs when the bailiffs supposedly carry out their lawful functions. Sometimes their conduct is not lawful but the presence of the police officer is to prevent any resistance on the part of the tenant or the person who is on the receiving end of the bailiff's actions, which oftentimes, as I have said without apology, could be downright unlawful. So that the presence of the police officer acts as a restraint, to keep the peace. That is why the police are there. But the police must be mindful of this and must be careful that they are not unwittingly made a party to unlawful and oppressive acts by bailiffs.

That is not uncommon. Only recently the treasurer of the UNC made a damning revelation and his house was searched. No doubt, the police had regulations, but they, quite naturally, may have been unwittingly used by someone. I am asking the police to be guarded against that. If there is any doubt, ask Mr. Unanan Persad.

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In light of the fact that we are responsible Members of this House, we would support the measure before us for the benefit of the administration of justice. We do so because we want to see the system work well and we would play our part in ensuring that.

Mr. Speaker, I want to bring to the hon. Attorney General's attention also, in section 14(3) of the parent Act, there is an error in respect of the word "suspend". It is written here "suspemd". It is a minor matter that should be corrected.

Mr. Speaker, with those very few words, I want to indicate to the hon. Attorney General, that it is not for the benefit of the UNC nor the benefit of Members on this side, but for the benefit of the national community, we would give support to the amendments and hope that they would appreciate the support. Thank you.

2.25 p.m.

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I thank the hon. Member for Laventille East/Morvant for the suggestions and contributions that he has made with respect to the Bill that is now under the consideration of this honourable House. I would ask the hon. Member to have a look at clause 6, because he was suggesting that we should make some amendments to ensure that whatever we were validating was specific only with respect to the non-registration matters and not to any other illegal act. I am advised by the Chief Parliamentary Counsel's department that, in fact, clause 6 already incorporates the suggestion that was made by the hon. Member. So if the Member would look at clause 6 of the list of amendments that we are proposing, which reads:

"Validation of certain actions 17. Notwithstanding any law to the contrary, any action taken by a bailiff under this Act from September 30, 2001 to date of commencement of the Bailiffs (Amdt.) Act, 2001, which may be found to be unlawful due to the non-registration..."

So that the only matters that are being validated are those that are due to the non-registration and not to any other illegal or unlawful acts.

So I thank the Member for that point and therefore clarify it by saying that his concern is already covered under the law. In fact, any validating legislation should not be effected absolutely without due thought as to the consequences, but should be restricted to the remedying acts or omissions which have caused the illegality.

So the hon. Member is very correct when he says we should not widen it to anything else but only to that very specific action that we attempt to validate. I am advised by the Chief Parliamentary Counsel that the wording of clause 6 already covers only those actions resulting from non-registration. Perhaps in the committee stage we can have further discussion.

If you look at *Legislative Drafting* by G. Thornton, the Second Edition, this is the point that is being made: that any validation, especially where it is retroactive—so one has to be exceedingly careful—that must not be effected absolutely without due thought as to consequences, should be restricted to remedying the acts or omissions which have caused the illegality. It is my respectful submission, this it is only with respect to non-registration and not to other illegal matters.

The hon. Member, I believe, has also raised that the regulations be published before registration, and clause 5(5), I am told, already makes provision for those regulations to be published before registration. I think the hon. Member made another suggestion which was that the list of persons registered as applicants—this is what he was saying—should be published. Perhaps I would ask the CPC's department to have a look at that suggestion for a greater transparency, which is what I think the hon. Member is concerned with.

I thank the Member for his suggestions and his contributions. The other matters we can pick up at the committee stage.

I beg to move. I thank you, Mr. Speaker. [*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.

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

Mr. Chairman: Did I hear a question from the Member for Laventille East/Morvant?

Mr. Hinds: I want to get back to the matter that the Attorney General raised in the debate regarding that validity clause. I read it again and—

Hon. Member: We have not come to that as yet.

Mr. Hinds: Oh, we have not come to that as yet. Okay, sorry.

New clause 5.

Mrs. Persad-Bissessar: Mr. Chairman, I propose a new clause 5 which reads as follows:

“Insert after clause 4 the following new clause:

Retrospective application	5. This Act is deemed to have come into force on June 30, 2001.”
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New clause 5 read the first time.

Question proposed, That the new clause be read a second time.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 5 added to the Bill.

New clause 6.

Mrs. Persad-Bissessar: Mr. Chairman, I propose a new clause 6 which reads as follows:

“Insert after the proposed clause 5 the following new clause:

6. The Act is amended by inserting after section 16 the following new section:

Validation of certain actions	17. Notwithstanding any law to the contrary, any action taken by a bailiff under this Act from September 30, 2001 to the date of commencement of the Bailiffs (Amdt.) Act, 2001 which may be found to be unlawful due to the non-registration of a bailiff in accordance with section 5 of this Act is deemed to have been lawfully and validly performed and no legal proceedings whether pending or not shall be entertained in respect of the lawfulness or validity of such action.”
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New clause 6 read the first time.

Question proposed, That the new clause be read a second time.

Mr. Hinds: Mr. Chairman, I listened to the Member as she explained the effect of this provision, but I still hold the position I took. It says:

“Notwithstanding any law to the contrary, any action taken by a bailiff under this Act from September 30, 2001 to the date of commencement of the Bailiffs (Amdt.) Act, 2000 which may be found to be unlawful due...”

This is it—“due”. So if the Act was found to be unlawful due to the non-registration, it is now going to be validated. But what about those that were not due to the fact of non-registration?

Mrs. Persad-Bissessar: They remain illegal. If they were illegal, they remain illegal. It is only those with respect to the non-registration. Prior to this there was no registration exercise, so it is only with respect to the provisions that have now been included for registration. Therefore, the Member’s concern of any other illegal acts, they remain illegal.

Mr. Hinds: All right. I would not pursue the point because we have the benefit of the case of Hart and Pepper, 1992, which permits the court to have a look at what was discussed in the Parliament and, therefore, even if we got the interpretation wrong, this discussion will assist the judge in coming to the right position.

Mrs. Persad-Bissessar: You are correct. Mr. Chairman, I beg to move that the clause be amended accordingly.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 6 added to the Bill.

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

House resumed.

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

2.35 p.m.

STAMP DUTY (VALIDATION) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move,

That the Stamp Duty Validation Bill, 2001 be read a second time.

Stamp Duty Bill

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Mr. Speaker, this, in a way, is similar to what we have just done, in that it seeks to validate matters that have already transpired in order to give legal effect to those matters. This Stamp Duty (Validation) Bill, 2001 seeks to validate the collection of stamp duty and fees by means of adhesive postage stamps from the date of coming into operation of the Stamp Duty (Special Provisions) Act, 2000 to the date of commencement of the subject bill.

Mr. Speaker, in understanding the Bill before this honourable House, one has to examine the Act which deals with the subject matter of the Bill, namely, the method of collecting stamp duty and other fees payable on certain transactions. The Stamp Duty (Special Provisions) Act was recently enacted by Parliament and came into operation on the date of proclamation by the President, November 06, 2000. The effect of the Stamp Duty (Special Provisions) Act is that the payment of stamp duty and fees by postage stamp was no longer provided for in law. So that, as of November 06, 2000, in terms of the law, it meant that we could not use postage stamps, for example, on mortgage deeds, other court documents and so forth, as was done previously. That is as of November 06, 2000.

The effect of the Stamp Duty (Special Provisions) Act is that the payment of stamp duty and fees by postage stamps was no longer provided for in law. After the Stamp Duty (Special Provisions) Act took effect such payments were required to be made by way of money instead of postage stamps. For the purposes of the Stamp Duty (Special Provisions) Act, 2000 the expression “money” includes electronic transfers, cheques or any other form of monetary settlement. The Stamp Duty (Special Provisions) Act was enacted as a consequence of the Postal Corporation Act, 1999 that established the Trinidad and Tobago Postal Corporation (TTPost). Revenue generated by postage stamps now belong to TTPost and therefore was not, and is not, considered as part of the revenue to be deposited into the Consolidated Fund.

Mr. Speaker, what happened previously was that when you purchased stamps and you put them on various government documents, whether it was a deed of mortgage, deed of conveyance or documents filed in the court, the moneys paid for those stamps went into the Consolidated Fund. With the Postal Corporation Act of 1999, and the formation of TTPost, the revenue generated by the postage stamps no longer, can go to TTPost but now has to go to the Consolidated Fund. So, prior to that Act, for all courts and public offices, the main manner of collecting revenue was through the use of postage stamps. So, written documents must be stamped in order to be enforceable in a court of law, and a stamp would have included an adhesive stamp such as the postage stamp.

All revenue collected by such means would have been accounted for in the Consolidated Fund of the country and the necessary accounting procedures would have taken place between the post office and the relevant government departments or agencies. I am advised that Government collected approximately \$12 million annually in revenue by means of postage stamps for all those various public government documents.

Many members of the public conduct transactions at post offices, government departments such as the Registrar's General Department and stamp duty and fees are payable for those transactions. With the enactment of the Postal Corporation Act, it became necessary to discontinue this form of revenue collection so that we would be able to maintain the integrity of the annual collection of \$12 million into the Consolidated Fund. Mr. Speaker, from November 06, 2000, therefore, the need to affix postage stamps to legal documents and other instruments as a means of verifying payment was eliminated. Having paid the requisite amount of cash, the government agency would now verify the payment by other means such as by embossment and impressing, by means of a dye—that is by placing on the face of the document some symbol that would indicate that moneys have, in fact, been paid but not by way of an adhesive postage stamp.

Notwithstanding the fact that money became the sole form of payment since November 06, 2000, when the Stamp Duty (Special Provisions) Act became effective, some government departments inadvertently continued to collect fees by means of the postage stamps. So, now what has happened is that the concern has arisen as to how valid are these documents issued or registered after November 06, using postage stamps. From November 06, you were no longer to use postage stamps, but yet some departments continued, inadvertently, to use them and the whole issue of the validity of those documents—government documents, birth certificates, death certificates, mortgage deeds, deeds of conveyances, leases—that are dealt with at the Registrar General's Department arose as to whether they are now valid and legal in law.

Of course they cannot be, unless they are validated which is what this Bill before this House seeks to do. It seeks to regularize payments made via postage stamps and, out of an abundance of caution, to place beyond a doubt the validity of instruments where the postage stamps have been affixed to them. I am advised by the Registrar General, who is now in the Chamber, that there are several hundreds of such documents lodged in her department to which postage stamps were affixed and where the concern is being raised as to their validity.

The language of the validation states that:

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“Notwithstanding section 3(1) of the Act, in relation to the payment of stamp duty or fees in accordance with any other written law, the cancellation, between date of proclamation of the Act, that is to say, 6th November, 2000 and the commencement of this Act, of postage stamps affixed to any instrument, is hereby validated. “

Under section 3(1)(b) of the Act the cancellation of postage stamps affixed to any instrument shall have no effect as from November 06, 2000.

The significance of the cancellation of postage or adhesive stamps would be appreciated after an examination of the Stamp Duty Act, Chap. 76:02. Under the Stamp Duty Act all written documents referred to in that Act are required to be stamped. In addition, fees payable in any court or public office shall be collected either in money or by means of stamps, such stamps being stamps impressed by means of a dye as an adhesive stamp. Section 18 of the Stamp Duty Act requires adhesive stamps on instruments to be cancelled in order that the instrument may be considered as being duly stamped. The adhesive stamp would be cancelled by an authorized person who would write on or across the stamp his name or initials together with the date on which the cancellation was done. The cancelled stamp cannot be used on any other document, thereby ensuring that revenue was not lost to the Consolidated Fund.

Ensuring that a written document is duly stamped is important when we come to dealing with providing evidence for all purposes where evidence is required. Any instrument executed in Trinidad and Tobago which relates to property situated in Trinidad and Tobago is not admissible in evidence unless it is duly stamped. So, upon the coming into force of the Stamp Duty (Special Provisions) Act, 2000, the cancellation of adhesive stamps no longer has any legal effect. In other words, the cancellation of adhesive stamps on written documents will no longer render those documents as being duly stamped. The predominance of the Act over the provisions of the Stamp Duty Act is expressly stated so that section 18 of the Stamp Duty Act has effectively been nullified. Consequentially, written documents relating to any property in Trinidad and Tobago denoted by adhesive stamps after November 06, 2000 could not, except for this validation Act before this honourable House, be given as evidence in any court of law.

2.45 p.m.

We are saying that if this validation is not done, first of all, there is doubt as to whether the documents are valid in law. Secondly, the whole issue of the revenue into collection of the Consolidated Fund is in question. Thirdly, these documents

cannot be used as evidence in any court of law. Those are the concerns and difficulties which lead us to ask this honourable House to approve and give support to the Stamp Duty (Validation) Bill which is before this House.

There is the issue as to whether those documents can be enforced in a court of law. There is the evidential problem and whether you can enforce such a document. For example, if within that time frame, property had been purchased and there is a deed of conveyance, where on the face of the document stamps had been affixed, the whole question would be: Could you enforce it if someone else came to claim that this was not your property, but it really belonged to him? It is evidence, issues and then enforcement of any judgment of the court. To avoid any fallout from law, the cancellation of adhesive stamps during the period November 06, 2000 to date of commencement of the Bill which is now being debated is being validated by this Stamp Duty (Validation) Bill. It is understood that money is being currently accepted. The Registrar General has so advised me that money in cash, kind, cheque and other electronic ways can be and is accepted by all relevant authorities, as the sole form of payment in respect of stamp duty.

When the original legislation was brought, it was very clear that we could not continue to rely on such a method that would seem to be one of the dinosaur age, where you had to buy a stamp to stick on every document. I remember in practice—I think the hon. Member for Laventille East/Morvant would have had the same difficulty. You would send a clerk to register a document and the person had to purchase the stamps in one place, go to the Registrar General and the stamps would not be enough and they would have to go back to find more stamps. They could not find anywhere to purchase the stamps. It was a very archaic system. The legislation is really to modernize the system to allow for transfers to be done.

[*Cellphone rings.*]

Mr. Speaker: Let me take 30 seconds and ask all persons who have cellphones in the House as well as in the public gallery, to check them now. Please do and turn them off. I would hate to ask the police to escort anyone outside if a cell goes off again.

Please proceed Minister.

Hon. K. Persad-Bissessar: Thank you, Mr. Speaker. That archaic system of having to find a post office to purchase stamps to put on government and legal documents, the intent was to take the system forward to deal with other forms of money transfers, by way of cash or otherwise. The Registrar General told me that

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so many documents and instruments, inclusive of deeds of conveyance of mortgage are affected. We have caused this Bill to be prepared so we could validate the cancellation of postage stamps affixed to any instrument in respect of the payment of stamp duty or fees, between the date of proclamation of the Act and the commencement of this amended Bill. That would be from November to the present time.

In our respectful view, the passage of this Bill would assist in preserving the integrity of the affected documents and would protect them from possible challenge to their validity on the ground of nonconformity with the Stamp Duty (Special Provisions) Act, 2000.

Thank you. I beg to move.

Question proposed.

Mr. Patrick Manning (*San Fernando East*): Mr. Speaker, I rise to make a very brief intervention in this debate, on the Stamp Duty (Validation) Bill. Since this is the first occasion in this sitting that I am having a chance to speak, I would like to extend my congratulations to the hon. Member for Siparia, on her elevation to the office of Attorney General and to wish her a very long and successful tenure in that office. It would be appropriate also, Mr. Speaker, in the highest tradition of Westminster, to extend sincere congratulations to the Member for Caroni East, who today, occupies the position of Leader of the House. I would like also to extend on behalf of all of us on this side, our congratulations to him and hope that he has a very long tenure in that exalted office.

This afternoon, the Minister made a fairly lengthy contribution on this matter. I thank her for it. Mr. Speaker, with respect, the real issue before Trinidad and Tobago today and which this House should be considering, is not whether we should validate the cancellation of certain postage stamps, but whether the Government of Trinidad and Tobago possesses the moral authority to pass any legislation whatsoever, in this Parliament. [*Desk thumping*] Look at it. The Government has lost its majority and rather than see this as the national issue that it is, and recognize that it has precipitated a crisis in the national community, the Government is asking us instead to come today to validate some postage stamps that may have been cancelled. The Government is asking us today, in this Parliament, to accept minority rule.

Hon. Members: No.

Dr. Khan: The Member for San Fernando East is contravening Standing Orders 43(1), (2) and 50(1).

Mr. Speaker: Hon. Member for San Juan/Barataria, the Member for San Fernando East has just started his contribution. At this stage, he is really into the preamble of his contribution. The practice in this House, as well as most jurisdictions, is that when a Member is in the preamble of his contribution, he is allowed some latitude. Some Members may interpret it as irrelevance. It is traditionally looked at as setting the stage for his contribution.

However, if the Member persists at length in varying from the matter at hand, then it is the duty of a Member of the House to move that Standing Order, or the Speaker to call to the Member's attention that he is straying from the issue. I do not believe that at this stage of the Member's contribution, that we could invoke Standing Order 43(1) and (2). Therefore, I rule that the Member would continue, but I am anxious for the Member to come back to the matter at hand, that is, the Bill that we are debating.

Mr. P. Manning: Mr. Speaker, I thank you very sincerely for your ruling. I must say that I am very pleased that you are in the Chair and not the Deputy Speaker. I forgot that he had been demoted. I am sorry.

The point I am making is this. As important as the Government and the House believe it is to validate stamps that have been cancelled, it is far more important that we address the crisis into which the country has been plunged, as a consequence of the Government losing its majority. I take it one step further. I agree that at some stage the House ought to deliberate on the cancellation of stamps, but I also agree that at this point in time and stage of the country's history, it is far more important that we address some of the statements that are emanating every night out of the Prime Minister of Trinidad and Tobago, threatening those who may hold a point of view that is different from his. They must live in the sky.

Mr. Speaker, I do not intend to run afoul of you, today. I do not intend to engage in any lengthy discourse on this matter. We feel that this House must establish its priorities well. It is more important that we debate the issues of the country today. We are serving notice to you that we on this side will not support the Bill. [*Desk thumping*]

Thank you.

Mr. Ramesh Lawrence Maharaj (*Couva South*): Mr. Speaker, may I congratulate the hon. Member for Siparia on her appointment as Attorney General and Minister of Legal Affairs. May I also congratulate the hon. Member for Caroni East on his appointment as Leader of the House. May I also congratulate all the Members of the Government who have been promoted or elevated and may

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I express my sympathy to those who have been demoted. [*Desk thumping*]

Under section 54 of the Constitution of Trinidad and Tobago, Parliament passes laws for the peace, order and good government of Trinidad and Tobago. The legislative process involves the Government which is part of the executive arm of the State and the Parliament that is the legislative arm of the State. There must be moral authority and principled position for an Executive and also a Parliament to act.

Mr. Speaker, on principle, I have to take a position in respect of some of the matters which have occurred. If governance is not on principles and where there are threats to democracy, I have to show my stand, especially where the present Government is not the UNC government. I intend not to support this measure.

Thank you.

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, on the actual Bill there is very little to respond to. I thank both the Member for San Fernando East and the Member for Couva South for their very kind sentiments, in congratulating the Member for Siparia and the Member for Caroni East. All the Members on this side of the House, I think you all deserve to thump your desks and thank them for their congratulations. I did not raise this issue and it has arisen. I would be guided by the Chair in terms of how much we should answer and how far we should go with respect to the concerns that are being raised.

The hon. Member for San Fernando East raised the question that the real issue before this honourable House is not whether we should be validating the cancellation of postage stamps, but whether the Government has the moral authority to pass legislation in the House. The Member has also raised the issue of whether the Government has lost the majority and therefore, does not have the authority to bring legislation into passage.

3.00 p.m.

But immediately before the Member for San Fernando East stood up in this House we had just passed a bill to amend the Baillifs Act. [*Desk thumping*] [*Interruption*] This honourable House passed a Bill.

Mr. Speaker: Member proceed please, now that we have some silence.

Hon. K. Persad-Bissessar: Yes, we passed it. This honourable House, Members of the Parliament passed it. But who brought it and who piloted it. We are not afraid of the threats, Mr. Speaker. The law is very clear. The hon. Member

for Couva South is totally correct when he said section 54 of the Constitution says that:

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

And so if it is that we have before this House a Bill to validate the cancellation of postage stamps—Mr. Speaker, which is so funny—if it is that this Bill is now being brought to this House—today, October 05—and the Stamp Duty (Special Provision) Act was passed and proclaimed since November 06, 2000, it means that from November 06, 2000 to now somebody was negligent [*Desk thumping*] in not bringing to this House legislation to ensure that no collection by postage stamps were being collected for all those months. Somebody failed to bring that to this honourable House.

I am saying that we have a duty, as Members of this Parliament, to pass laws for the peace, order and good government in the interest of the people. If the Bill today is to validate all those actions, all those deeds, conveyancing, and mortgages—it does not hurt us sitting on this side only, it hurts all those people, the members of the public, the citizens of this country who have been in some way prejudiced or compromised because the action was not taken to ensure that they were not still paying by postage stamps. The law was passed—November 06, 2000 proclaimed—and today we are saying there were departments still collecting by postage stamps. Mr. Speaker, what they are trying to say—in fact, it is a threat in a sense—they are not going to support it. But it is not a threat to us, it is to the people of Trinidad and Tobago. [*Crosstalk*]

Mr. Speaker: Members, let me appeal to you for the first time. We cannot conduct the business of the House with this loud noise, yelling across the floor. I have said from time to time, it poses difficulty not only for the Speaker to follow what is being said so I can rule when I am called upon to rule, but to the Hansard reporters who are required to take this debate accurately. Can we try hard to conduct ourselves without such loud noise and yelling across the floor? I am appealing to you, please. Please continue, Member.

Hon. K. Persad-Bissessar: Thank you, Mr. Speaker. Failure to support this measure today which has been on the Order Paper not today only, not yesterday only, not before that, since last week and even previous to that but this matter has been on the Order Paper of this honourable House for quite some time now. Before and prior to any deal-making that was made on the other side [*Desk thumping*] the matter was brought to this House because it was felt to be in the

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interest of the citizens of Trinidad and Tobago. Mr. Speaker, I ask you to contemplate the consequences for the people of this country, the citizens of this country who, through no fault of their own, continue to use the postage stamps in government documents, in the Registrar General's Department, for deeds, for mortgages, for leases, for court documents and all other kinds of documents. What are the consequences? You cannot use them as evidence. Think of it. You purchased a property, you go to court and say I own this property, this is my deed, here is the stamp. You cannot use it as evidence; you cannot use it to say this is yours when you have validly paid your money, through no fault of your own because of this non-validation in the law, you paid by stamps. Mr. Speaker, that is one of the issues.

I do not understand the Member for San Fernando East standing in this House, and asking whether Government possesses the authority, whether Government has the authority and that Government has lost the majority in this House. Mr. Speaker, the Constitution of this country is very clear. There is a provision which sets out very clearly how a Parliament demonstrates to the nation and to the people that a government loses the majority support. It is very clear. It is not by meeting in rooms and hotels and striking deals and shaking hands. It is not like that. The Constitution is very clear, and so section 77 of the Constitution says very clearly how a Parliament demonstrates the loss of confidence and that the majority has switched from one to the other. Section 77(1) says it very clearly—a motion of no confidence. Mr. Speaker, we had no intention of speaking of this but it was raised. The Member has said we have lost the majority in the House.

Mr. Speaker, section 77 says very clearly:

“Where the House of Representatives passes a resolution, supported by the votes of a majority of all members of the House, declaring it has no confidence in the Prime Minister and the Prime Minister does not within seven days of the passing of such a resolution either resign or advise the President to dissolve Parliament, the President shall revoke the appointment of the Prime Minister.”

Motion of no confidence. Here is the remedy. Why are they afraid of bringing the motion of no confidence? If they say we have lost the majority, let them bring their motion of no confidence.

Mr. Speaker, I wonder if those who profess that we have lost the majority—when you bring the vote they are not sure how they are going to vote. They are not sure, Mr. Speaker. I am not sure that is why. Why is it when the provision is very clear, there is the failure to bring the motion of no confidence? Do not sit

today and say that the Government has lost the majority because according to the law, there has been no demonstration of the loss of majority of Members in the House.

If that is the case, the Members of this honourable House must do what is the right thing so that the nation and the people of this country can understand and know—*[Interruption]*

Mr. Speaker: The Member is asking for my protection and she is entitled to it, so I have to appeal to you again to keep the levels down.

Hon. K. Persad-Bissessar: I thank you, Mr. Speaker. And so what they are saying is that the Government has lost its majority. What do they want to do? Are they saying that they will not support this measure in order to prove that Government has lost its majority and, therefore, suffer people who have property and take away the property of people because of a failure to deal with a validation of cancellation of postage stamps? Are they saying that those people who have taken mortgages, had leases and used postage stamps that that is invalid and, therefore, we in this House do not care about people, we will not validate it? Is it then taking away our property? If you want to demonstrate the Government has lost its majority, you have your chance.

The Leader of Government Business said it yesterday, very clearly; we will welcome a debate; use the law and not deals and letters. Do not take your inability and your ineffectiveness out on the poor people in the country by failing to pass legislation for their benefit. You must do what is right to prove that you have the majority and, therefore, do not let the poor people of the country suffer. You do the right thing but let the poor people in the country have their validation for their postage stamps.*[Interruption]*

Mr. Speaker, they want me to beg to move but I am not moving yet. They raised the issue, and if the hon. Member for San Fernando East has the majority in the House, he should do what the Constitution says. The Member for San Fernando East has been Prime Minister and he knows what the law is. He knows that he cannot be removed from office unless the proper procedures are put into place. The proper procedures must be followed. What he also knows is that as Leader of the Opposition he can be removed by letter. He knows that, but the Prime Minister cannot be removed by letter. The only way is by a vote of no confidence in the Parliament.

If your intent is to bring the Government down, you cannot do it by way of a vote on this Bill. This Bill is not about bringing the Government down.

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[HON. K. PERSAD-BISSESSAR]

Remember you do not bring a government down on a Bill like this. You could bring a government down if you fail to approve the budget, which you failed to do, of course. None of you on that side agreed to pass the budget. That is just a way you could have brought the Government down. You could have brought the Government down by going back to the polls. You can bring the Government down by a vote of no confidence but you cannot bring the Government down by failing to vote on a measure for the benefit of the poor people of the country. [Desk thumping] You cannot do it. That is not the way, to take out your spite on the poor people of this country. It is not the way at all to deal with assisting in terms of the quality of life of the citizens.

When you speak of a government of national unity, that you have struck a deal in principle to form a government of national unity, and you are going to look at certain issues—that is what I think I read this morning; social development, equity and the quality of life—and here it is you are saying because you have lost the majority, I am not going to vote for validation of the postage stamps. [Interruption]

Mr. Speaker: Member, please proceed.

Hon. K. Persad-Bissessar: I thank you, Mr. Speaker. [Desk thumping] Mr. Speaker, in private practice, the Member for Laventille East/Morvant would know—where is the Member for Toco/Manzanilla, the Member for Arima, as attorneys-at-law—the Member for Arouca South, you would remember those people who came into your chambers—if you do conveyancing—saved every little cent and penny in order to get together to purchase a property. They take a mortgage from the bank to purchase a piece of property; think of it. When they come in there the first thing they do, they get enough to make a deposit. The Member for Diego Martin Central knows it. You make a deposit, that is the first thing, and then you go and look for the rest. You raise the funding and so you make the deposit and purchase the property, and then you go to the Registrar General's Department to register the deed to give you ownership of the property. The Registrar General's Department in spite of the change in the law was collecting postage stamps and the law prior to this was that you collect by postage stamps but that was vital to say this is a genuine legal document.

3.15 p.m.

After the law changed that was not the way, and so the postage stamps on those documents now are in question. Mr. Speaker, you are holding your deed, you have spent your cents and pennies that you have saved and you got your

mortgage and you are paying—remember you took the loan and you have to pay the mortgage—for the piece of land and in the meantime people are questioning whether you really own this piece of land because of the postage stamp. You cannot use it as evidence in a court of law. You cannot use it if your son, daughter, husband, brother, sister, uncle, or someone, for some reason, is brought before a court of law. You cannot use it for the purposes of taking bail because it is still an issue. You cannot use it then for all the purposes for which a person acquires a deed. You cannot use it if you want to get a further loan because there is still the question: Is it valid?

If someone questions whether you are, in fact, the owner of the property, there is a dispute as to the ownership of the property, you still cannot be sure because, again, you cannot use it as evidence in a court of law. Hon. Members on the other side are saying that because they wonder whether the Government has lost its majority they will not support this piece of legislation which is to ensure that those persons who purchased properties by blood, sweat and tears, and who are paying mortgages on these properties—and that they will not pass the Stamp Duty (Validation) Bill.

What are they saying, Mr. Speaker? Should we allow those persons to lose their properties? Should we allow those persons not to be able to bring evidence? Member for La Brea, learned counsel, in your practice, when you did deeds of conveyancing and you put in purchase stamps—

Mr. Imbert: On a point of order, Mr. Speaker, in accordance with Standing Order No. 43(1) and (2), the Member is engaging in tedious repetition, and I ask the Speaker to bring her back on track. [*Desk thumping*]

Mr. Speaker: The Member is responding to matters raised by two Members who made inputs in the debate, other than the Member herself. I do not believe she is engaging in tedious repetition and therefore I cannot allow the point of order.

Member, please proceed.

Hon. K. Persad-Bissessar: Thank you. Mr. Speaker, for the hon. Member for Diego Martin East, it is tedious repetition because he does not really want to hear the truth. The truth offends him, that is what is happening. This is affecting the poor and ordinary people in the country. So do not let your malice and spite towards Members on the Government side prevent you from voting for this measure before this honourable House. If it is you want to show that the Government—[*Interruption*] You see, Mr. Speaker, because they do not want to

Stamp Duty Bill

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hear what we have to say they will continue to harass us. Mr. Speaker, I ask for your protection.

Mr. Speaker: Hon. Members, the option available to me, if the House will not cooperate, is to suspend the sitting. Do you want me to suspend? I have appealed to you about four times and you have been repeating. I have also already indicated to you that the House cannot continue to conduct its business like this. This is the third time the hon. Member has asked for protection in this House. I am saying that if I have to be on my feet another time to caution you, I will suspend this House for a time that I shall determine. So please!

Member, continue.

Hon. K. Persad-Bissessar: I thank you, Mr. Speaker. You see, Mr. Speaker, the whole matter is like a joke. It is a big joke to them because it does not affect and touch them. It is a joke and you know what they are attempting to do with each word that I say is to ridicule the messenger. That is what is happening. Whatever I am saying is a big joke. Ridicule me! Shut up Kamla, shut up! They do not want to hear because they know it is the truth and it will affect the small people of this country. That is why I will not sit. They are asking me to “beg to move” and I will not, because I must make the point clear, Mr. Speaker, that this is not just about us sitting on this side of the House, it is about the people of Trinidad and Tobago. So if you tell me that the Government has lost its majority, well then prove it. That is all I ask them to do and not by voting against the people for postage stamps, Mr. Speaker. They should bring a motion. Why are you afraid? We will deal with the motion. We are ready and willing to debate a motion of no confidence.

Mr. Speaker, I thank them for their congratulations. We will speak more on this issue. There are many more days to come, and I am sure the Member for San Fernando East continues to wait with bated breath for something that will never happen. [*Desk thumping*]

I thank you, Mr. Speaker, and I beg to move. [*Desk thumping*]

Question put, That the Bill be now read a second time.

The House divided:

Ayes 16 Noes 18

AYES

Singh, Hon. G.

Panday, Hon. B.

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Persad-Bissessar, Hon. K.

Assam, Hon. M.

Humphrey, Hon. J.

Baksh, Hon. S.

John, Hon. C.

Rafeeq, Dr. The Hon. H.

Ramsaran, Hon. M.

Panday, Hon. S.

Khan, Dr. The Hon. F.

Peters, Hon. W.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Chaitan, Hon. W.

Sharma, Hon. C.

NOES

Sudama, T.

Maharaj, R. L.

Maraj, R.

Valley, K.

Manning, P.

Rowley, Dr. K.

Imbert, C.

Robinson-Regis, Mrs. C.

Narine, J.

Bereaux, H.

James, Mrs. E.

Joseph, M.

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Boynes, R.

Hinds, F.

Callendar, S.

Beckles, Miss P.

Achong, L.

Moore, N.

Mr. Speaker: Hon. Members, the result of the division is 16 for and 18 against.

Question negatived.

Mr. Speaker: The Bill is defeated.

PILOTAGE (AMDT.) BILL

Order for second reading read.

The Minister of Transport and Minister of Tourism and Tobago Affairs (Sen. The Hon. Jearlean John): Mr. Speaker, I beg to move,

That a Bill to amend the Pilotage Act, Chap. 51:02, be read a second time.

Mr. Speaker, before I get to the substance of this Bill, I would like to provide this honourable House with information that should serve to put the Bill in its proper context. The Government's vision for maritime administration fits seamlessly into our overall vision for transforming the entire transportation sector, in keeping with the goal of making Trinidad and Tobago a total quality nation.

The Ministry of Transport, through the work performed in its various agencies and departments, has consistently sought to gear its policies and programmes to the realization of this vision. One of the key ways in which the vision has been advanced is in the evolution of the Ministry's Maritime Services Division. The Division has statutory responsibility for the establishment and maintenance of navigational aids. It also holds responsibility for the improvement of the safety of shipping, and for ensuring that vessel source pollution is controlled or prevented.

To this end, we have been successful in placing Trinidad and Tobago on the International Maritime Organization (IMO), Standards of Training, Certification and Watchkeeping for Seafarers (STCW), white list. Inclusion on this internationally published list means that Trinidad and Tobago has given full and complete effect to the revised (STCW) 1995 Convention, which has been amended and which is expected to be implemented by February 01, 2002.

Additionally, marine legislation was strengthened with the revision of the Harbour Bill and the Droghers Act. The former will now allow greater monitoring and control of vessel arrival, stay and departure, in the waters of Trinidad and Tobago, while the latter will generate an increase in revenue. To ensure protection of the marine environment, Trinidad and Tobago also acceded to six Marine Pollution Conventions and the Shipping (Marine Pollution) Bill was passed.

Further, Mr. Speaker, in order to achieve Government's objective for the maritime sector, the scope of works for financial year 2001/2002 is geared toward improving the standard and quality of navigational aids. In 2002, transformation of the Maritime Services Division into a statutory authority will commence, with a view to improving service to the public and with the aim of generating increased revenue. It is expected that improved infrastructure, coupled with strengthened legislation and a more efficient Maritime Services Division, will benefit the increasingly large international, regional and local marine population who traverse our waters for the purpose of trade, transport and leisure.

Government also recognizes the importance of an inter-island transportation system. In this regard, it is expected that the mf *Panorama* will be back in service by December 2001, so that those of our citizens who depend on the sea-bridge service for reasons of commerce, et cetera, could look forward to relief in that area very soon.

The Port Authority of Trinidad and Tobago has responsibility for actualizing a very critical aspect of the grand vision for our transportation system and, indeed, for growth of the national economy as a whole. The Authority has continued its major capital upgrade, which started in 1998, fashioned on the basis of a growing market and its ability to meet the needs of this market effectively. To this end, a programme involving the acquisition of new equipment and the expansion and upgrade of the port's infrastructure was embarked upon.

The Port Authority of Trinidad and Tobago takes, very seriously, its mandate to achieve financial viability. To this end, it has embarked on a major infrastructure upgrade. During fiscal year 2001/2002, the Port Authority successfully completed the following various infrastructural upgrade projects which includes:

- Dredging the Port of Spain Harbour to 12 metres
- High voltage electrical upgrade system
- Upgrade to aids to navigation
- Upgrade to container berth 6A

Pilotage (Amdt.) Bill
[SEN. THE HON. J. JOHN]

Friday, October 05, 2001

In light of the Authority's thrust towards improving its infrastructure, the following capital upgrade programme is scheduled for fiscal year 2002:

- Construction of a maintenance workshop
- Reconstruction of berth 7
- Asphalt paving of empty container storage yard
- New water reticulation system
- Reconstruction of berth at Caricom wharves.

Mr. Speaker, to focus now on the Bill at hand, pilotage is the word used to describe navigation and the safe conduct of ships into and out of harbours and restricted waterways within Trinidad and Tobago. Every ship that navigates within the harbours and channels of Trinidad and Tobago must operate under the control of a licensed helmsman or pilot in accordance with the Pilotage Act, Chap. 51:02.

The Second Schedule of the Act outlines specific areas, deemed compulsory pilotage areas where ships navigating must be under the control of a pilot. These areas, all of which comprise major port facilities, are as follows:

- Chaguaramas
- Port of Spain
- Point Lisas
- Scarborough
- Pointe-a-Pierre
- Brighton
- Point Fortin

The provisions of the Act apply mainly to foreign flag vessels; however, the following are exempted vessels for the purpose of the Act:

- ships belonging to the Government of Trinidad and Tobago
- pleasure craft
- fishing vessels
- ferry boats operating between harbours in Trinidad and Tobago
- ships of less than 50 tonnes, gross tonnage

- ships as may be exempted by by-laws made by the Pilotage Authority.

Currently, Mr. Speaker, the Trinidad Pilots and Berthing Masters Association, a company incorporated under the Companies Act and first established in 1939, provides all licensed pilotage services. The statutory body known as the Pilotage Authority was established under the provisions of the Act to oversee all matters relating to the licensing and conduct of pilots and the safe pilotage of ships into Trinidad and Tobago.

3.30 p.m.

In accordance with the provisions of the Pilotage (Amdt.) Act, No. 6 of 1995, the present composition of the harbour is as follows:

- (a) the Harbour Master, who shall be ex officio Chairman;
- (b) a representative of the Shipping Association;
- (c) a member of the Pilots Association;
- (d) a representative of the Port Authority;
- (e) a person who holds a certificate as Master Home Trade issued by the Government of Trinidad and Tobago or an equivalent or higher certificate or, alternatively, someone who has obtained the rank of Lieutenant-Commander in the Trinidad and Tobago Defence Force;
- (f) a barrister or solicitor;
- (g) a person suitably qualified in economics, accountancy or commerce.

The Pilotage Authority is also charged under the Act with the following responsibility:

- (1) The licensing of pilots for the purpose of conducting ships within compulsory areas, as defined in the Act;
- (2) making by-laws;
- (3) determining the qualifications of candidates for pilots licences and pilotage certificates;
- (4) limiting the number of pilots to be licensed;
- (5) ensuring the good governance of pilots;
- (6) providing for the punishment of any breach of by-laws;
- (7) approving the training standards for pilots;

Pilotage (Amdt.) Bill
[SEN. THE HON. J. JOHN]

Friday, October 05, 2001

- (8) determining the methods of conducting examinations for masters and mates;
- (9) applying for pilotage licences and certificates;
- (10) fixing the rates of payment for pilotage services; and
- (11) ensuring that investigations are conducted when there is an accident or incident involving pilotage to determine the cause of the incident and steps to be taken to prevent recurrence.

The Authority is therefore generally responsible for the regulation of all matters relating to pilotage of ships in Trinidad and Tobago waters. When the Authority was reconstituted in 1995, the impact of shipping in Trinidad and Tobago and, consequently, the need for pilotage services, was not as critical as it is today. Expanded port facilities at Scarborough, Port of Spain, Chaguaramas, Point Lisas and, lately, at Brighton, with the operation of the former Trinmar, Petrotrin and the Atlantic LNG plant, have all contributed to dramatic increases in the frequency with which foreign flag vessels come to Trinidad and Tobago's ports.

All the above-mentioned areas are subject to compulsory pilotage under the Pilotage Act. Currently, there are 23 licensed pilots who are members of the Pilots and Berthing Masters Association. The pilots completed 13,792 movements at national ports in 2000, as compared to 1996 when 15 pilots completed 9,665 moves. Mr. Speaker, the figure is increasing at a steady rate as a result of the expanded foreign flag vessels' calls to local ports and harbours.

The Pilotage Authority has considered the impact of these increased movements on its work and its programme to ensure the safe conduct of pilotage services in Trinidad and Tobago. More importantly, new vessels and advancement in technology have increased the need for greater attention to be paid to policy and programmes geared to upgrading pilotage skills and training to ensure optimum safety of pilotage services at national ports.

The Pilotage Authority has recommended that with the increased importance of pilotage and the consequent focus on upgrading policy and programmes related to the conduct of pilotage services in Trinidad and Tobago, there is a need for wider representation from the association and there should be two dedicated members of the authority representing the Trinidad Pilot and Berthing Masters Association. This will provide for continuity, more effective handling and monitoring by the Pilotage Authority of all issues relating to the conduct and performance of pilots.

The purpose of this Bill, therefore, is to amend section 4 of the Pilotage Act to include within the membership of the Pilotage Authority two members of the

Pilots and Berthing Masters Association, Pilots Association, instead of one. The Bill seeks also to give the Chairman of the authority a casting vote in situations where voting results in a deadlock.

Clause 1 of the Bill is self-explanatory. Clause 2(a) of the Bill makes provision for an additional member from the Pilots Association, while clause 2(b) empowers the Chairman to have and to exercise a casting vote in the eventuality that on significant voting matters there is a deadlock.

Mr. Speaker, I am sure the importance of this Bill is not lost on the House. Therefore, Mr. Speaker, I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, I would describe this legislation as trivia and the speech of the Minister as twaddle. [*Laughter*]

I really have a difficulty when we talk about legislation that deals with the Port Authority, pilots and shipping and we have a situation in Trinidad and Tobago where there is just one vessel plying the route between Trinidad and Tobago; one vessel limping along and the other vessel, *mf* Panorama, has been in the Port of Spain port for one year while they fool around with all this nonsense.

If you look at this Bill it is to change one to two and give the Chairman of the Authority a casting vote; as I said, twaddle. It has been one year, since October of last year, the *Panorama* has been downed and the Tobago route has been served with one boat instead of two. Goods are piling up on the port. Tobagonians have to pay more. There is no pun intended when I say that Tobagonians have to pay more [*Laughter*] for the transport of their goods, but this is a callous, uncaring Government; callous, uncaring, minority regime; that is what it is. [*Desk thumping*]

I understand that after fooling around with that boat for one year, doing nothing, they have some men tinkering with it down by the docks there, while we pay millions of dollars in rent to a foreign company to rent a foreign ferry. I understand that after one year of fooling around, they intend to send the boat to Miami or some other foreign jurisdiction—I do not know what they have with Miami—to pay \$10 million or \$12 million of taxpayers' dollars, to be repaired, after 12 months of incompetence, negligence and delay, while the poor people of Tobago suffer.

I think the Minister is from Tobago, but I do not think she cares and, as a consequence, I cannot support this legislation. We should be debating other things. We should be debating the state of the country. [*Desk thumping*] We

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should be debating the fact that the banks and all the financial institutions are coming out and saying that the country is in crisis, because the Government has lost its majority. [*Desk thumping*] That is what we should be debating here; not this twaddle.

I am not supporting this Bill. I am not voting for this Bill and I am asking the Government to get serious and bring serious measures into this Parliament. [*Desk thumping*]

Hon. Members: Pack up “yuh” bags and go!

The Minister of Transport and Minister of Tourism and Tobago Affairs (Sen. The Hon. Jearlean John): Mr. Speaker, in Tobago we sometimes say of little people “yuh little but yuh tallawa”, but in this case we can only say, “empty vessels” and I guess you can draw your own conclusions. [*Crosstalk*]

Mr. Speaker, I beg to move that this House do now resolve into committee to consider the Bill—[*Interruption*] [*Crosstalk*]

Hon. Members: What!

Sen. The Hon. J. John: Mr. Speaker, I beg to move.

Mr. Speaker: All right, the Member begged to move. Please, please, order, order! [*Interruption*]

Mr. Valley: The Member begged to move?

Mr. Speaker: She did.

Mr. Valley: I did not hear her.

Mr. Speaker: That is exactly the point I am making, Member for Diego Martin Central. When we have that level of noise, even you cannot hear and you are the Chief Whip. All right, it is not for debate. [*Laughter*]

Question put, That the Bill be now read a second time.

The House divided: Ayes 16 Noes 18

AYES

Singh, Hon. G.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Assam, Hon. M.

Humphrey, Hon. J.
Baksh, Hon. S.
John, Hon. C.
Rafeeq, Dr. The Hon. H.
Ramsaran, Hon. M.
Panday, S.
Khan, Dr. The Hon. F.
Peters, Hon. W.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Chaitan, Hon. W.
Sharma, Hon. C.
NOES
Sudama, T.
Maharaj, R. L.
Maraj, R.
Valley, K.
Manning, P.
Rowley, Dr. K.
Imbert, C.
Robinson-Regis, Mrs. C.
Narine, J.
Bereaux, H.
James, Mrs. E.
Joseph, M.
Boynes, R.
Hinds, F.

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Callendar, S.

Beckles, Miss P.

Achong, L.

Moore, N.

Question negatived.

Mr. Speaker: Hon. Members, the result of the division is 16 for and 18 against. The Bill is defeated.

LIQUOR LICENCES (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move,

That a Bill to amend the Liquor Licences Act be now read a second time.

You may recall that in 1998 effect was given to an Act that amended the Liquor Licences Act, Chap. 84:01, to provide for the granting of a special event licence. That special event licence, you will recall, allowed persons, in particular small vendors, to sell intoxicating liquor during the celebration of a special event declared by Order of the President to be such an event.

Since that time, events such as Carnival, borough days in various areas, for example, Point Fortin Borough Day—I recall the Member for Arima making a request for the Arima Borough Day to be declared a special event—the Tobago Heritage Festival and so on, were declared special events. This allowed small vendors the opportunity to obtain a licence at, I think it was a very basic fee, of \$10, compared to the moneys you had to pay previously to obtain such a special licence, in order for some income to be brought in.

The purpose of the amendment then was to achieve the following: firstly, to make it more affordable for persons and, in particular, small vendors who operate during the celebration of a special event, to obtain a special event licence to carry on their trade for a much smaller fee than would normally be the case for an occasional licence; and secondly, they did not have the red tape associated with the application for an occasional licence. Further, it was to encourage small enterprise; to encourage previously unregulated persons such as small vendors who had been operating outside the law during the celebration of public holidays and festivals, now known as “special events”, to apply for and make use of special events licences.

Earlier this year, officials of the steel band fraternity made representations to Government to extend to the cultural community the facility of being able to sell spirituous liquor without the hassle of the existing legislation and the procedure set out thereunder, by means of getting a procedure similar to that which obtains for application for a special event licence.

Government was sympathetic toward this request because of the tremendous national contribution made by cultural artistes, the steel bands men, calypsonians, the chutney singers and dancers and the contribution they have made in achieving regional and international recognition and, of course, the economic benefits to tourism that they have brought to Trinidad and Tobago. Of course, apart from all that, is the fact that it was able to put money into their pockets so they could have income in order to carry on and better the quality of their own lives.

Mr. Speaker, the licence which this amending Bill seeks to grant will be, therefore, called a “cultural entertainment licence”. What it would do is to authorize a cultural organization to sell intoxicating liquor at the premises of the cultural organization, stipulated in the licence. Thus, a cultural organization is defined as any steel band, chutney group, tassa group, calypso tent and other body that is so designated for the purposes of the Act, by order of the Minister.

The representations being made were such that—you would know that there are steel pan yards. In order for these pan yards to be able to serve liquor, they would have had to obtain an occasional licence, the fee for which was tremendous. The red tape and bureaucracy of the procedure put them through so much harassment that many of the pan yards could not afford it and would not go through the procedure.

With this amendment it was felt, based on their requests, lobbying and representation, that at the pan yards, the tassa yards or the chutney area, those cultural entertainment areas would be able to obtain this special cultural entertainment licence in accordance with the provisions set out in the amended Bill.

What the Bill seeks to do then is in accordance with the proposed section 47M:

“(1) Every person desiring to obtain a cultural entertainment licence on behalf of a cultural group shall make an application to the Licensing Authority.

(2) For the purposes of this Part, the Clerk of the Peace assigned to the Magisterial District in which the premises of the cultural organisation are situated...

(3) A cultural entertainment licence shall be valid for one year.”

Clause 47N states:

“(1) Every application shall state—

- (a) the name, occupation, age and address of the applicant and his position in the cultural organisation;
- (b) the identification number appearing on his—
 - (i) I.D. Card;
 - (ii) Passport; or
 - (iii) Driving Permit;
- (c) the precise address and location of the premises; and
- (d) the activities of the cultural organisation.

(2) Every application shall be accompanied by a plan of the premises together with a fee...”

Mr. Speaker, clause 47N, therefore, gives the particulars to be included in the application for a cultural entertainment licence.

Every application is required to be accompanied by a plan of the premises in which the liquor would be sold together with a fee. Under clause 47O. it states:

- “(1) A copy of the application and plan of the premises shall be submitted to the officer in charge of the Police Station within the Magisterial District in which the premises are situated.
- (2) The police officer, referred to in this subsection (1), on receipt of the copy of the application, shall acknowledge same by affixing the station stamp on the original application and certifying the receipt of the copy thereon.
- (3) The officer in charge of the Police Station may object to the granting of a cultural entertainment licence and his objection shall be submitted to the Licensing Authority not more than fourteen days after the date of the receipt of the copy of the application.
- (4) The Licensing Authority may refuse to grant a licence where there is an objection...”

The Licensing Authority then will have the final say on whether to grant or refuse the licence.

With respect to objections, 47P states:

“Notice of an application for a cultural entertainment licence shall, within fourteen days of the receipt of the application by the Licensing Authority, be published in a daily newspaper with all the information required under section 47N(1), for a period of at least seven days.”

It provides that within 14 days of receipt of the application, notice of the application must be published in a daily newspaper with all the information that had been requested in terms of particulars.

Mr. Speaker, 47Q. deals with the issue of objection and how the objection can be made:

- “(1) The owner of the premises in respect of which a cultural entertainment licence is applied for or any owner or occupier of property situated within a quarter of a mile therefrom, may submit an objection to the granting of a cultural entertainment licence to the Licensing Authority within fourteen days of the last day of publication of the notice of application.
- (2) The Licensing Authority may, upon receipt and consideration of an objection under subsection (1), refuse to grant a cultural entertainment licence to the applicant for the licence in respect of which the objection was made.”

3.50 p.m.

Clause 47R says the Licensing Authority could grant the licence:

- “(1) Where there is no objection under section 47O or 47Q, the Licensing Authority may, within thirty-five days of the receipt of the application, grant a licence to the applicant in respect of premises referred to in the application.
- (2) Where an objection has been submitted by the police, the Licensing Authority shall set the matter down for hearing for the day following the day on which the objection was received and such objection shall be heard and determined by a Magistrate within a reasonable time thereafter.”

This cultural entertainment licence is to be in the form of an occasional licence as set out in 47S.

With respect to 47T:

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- “(1) A cultural organisation shall not be permitted more than one cultural entertainment licence.
- (2) A cultural organisation that is in possession of more than one cultural entertainment licence is liable on summary conviction to a fine of one hundred thousand dollars.”

And the restrictions are:

- “(3) A cultural organisation may sell liquor only between the hours of 6.00 p.m. and 4.00 a.m.

47U. A cultural entertainment licence shall not be granted to a cultural organisation for sale of intoxicating liquor in a dwelling house.”

It is not intended for the sale to take place out of a dwelling house, but out of the premises where the cultural organization carries out its business as an organization.

So, Mr. Speaker, the provisions of this amending Bill are very clear in terms of its intention. It is to bring within the reach of the cultural organizations of this country the possibility of applying for, and obtaining a special cultural entertainment licence similar to what is granted during special events in this country.

But there are restrictions as I said, and one restriction is it cannot be offered for sale out of a dwelling house, so the family life and the life of children will not be affected in that way. You cannot offer the liquor for sale out of a dwelling house. Objections can be made, perhaps it may well be that where the premises are located there is a school next to it, and so, there may be objections that can be placed before the Licensing Authority. Objections can be heard, and the matter determined in the public's interest.

Mr. Speaker, you will recall in the budget that the hon. Minister of Finance made it very clear that alcohol and cigarettes would not be offered for sale to anyone under the age of 18 years and, therefore, we will be implementing and putting into place a sort of strict liability provision that will ensure that you must provide some form of identification.

Previously, owners of premises selling alcohol and cigarettes would have had to use their judgment to determine whether someone was underage or not but, with the proposals of the Minister of Finance, you would have to have proof and you would be liable whether you thought so or not. It would be your duty to ensure that the person to whom you are selling is above the age of 18 years.

Mr. Speaker, what can I say? The Member for Couva South brought this measure to the Cabinet, recommended this measure to Cabinet and asked the

Cabinet to support the recommendation that was brought before it for this. Members of Cabinet approved the recommendation because the Cabinet was of the view that this is a measure that would benefit the citizens of Trinidad and Tobago and the cultural organizations of the country. Thereafter, when Cabinet gave its approval, the Member for Couva South in his capacity, then brought this measure and had it lain in this honourable House.

Mr. Speaker, it is for us to see in the event that has transpired whether the hon. Member would still follow the recommendations that he made to Cabinet as this Bill, and the provisions within it are clearly those based on the recommendation of the Member for Couva South and supported by Cabinet and the Members on this side.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, I am participating in this debate on a Bill to amend the Liquor Licences Act, Chap. 84:10. I want to join my colleagues who went before me, both on this side, and on the other side, to also indicate that there are more serious measures facing this Government and this country than debating at this time the Liquor Licences Act. [*Desk thumping*]

The hon. Member for Siparia indicated that the former Attorney General, the Member for Couva South, was responsible for initiating this piece of legislation; that was at a different time. We are living in very dynamic times, Mr. Speaker, and as a result, given the circumstances that face this country today, we cannot afford at this point in time, to be debating this when much more serious matters face this country, because we are dealing with a minority Government and we need a government that would provide this country with good governance.

Thank you very much, Mr. Speaker.

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I agree that there are very many more important matters and there are procedures, legislation and mechanisms by which to do them and the Government is always willing to engage—if you do the right thing and follow the law, we will also do it. Do what you have to do, and we will do what we have to do, and until you do what you have to do, we will continue what is our duty, Mr. Speaker, which is to deal with the matters that are on the Order Paper before this honourable House.

Mr. Speaker, I beg to move.

Question put, That the Bill be read a second time.

The House divided: Ayes 16 Noes 18

AYES

Singh, Hon. G.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Assam, Hon. M.

Humphrey, Hon. J.

Baksh, Hon. S.

John, Hon. C.

Rafeeq, Dr. The Hon. H.

Ramsaran, Hon. M.

Panday, S.

Khan, Dr. The Hon. F.

Peters, Hon. W.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Chaitan, Hon. W.

Sharma, Hon. C.

NOES

Sudama, T.

Maharaj, R. L.

Maraj, R.

Valley, K.

Manning, P.

Rowley, Dr. K.

Imbert, C.

Robinson-Regis, Mrs. C.

Narine, J.

Bereaux, H.

James, Mrs. E.

Joseph, M.

Boynes, R.

Hinds, F.

Callendar, S.

Beckles, Miss P.

Achong, L.

Moore, N.

Mr. Speaker: Silence, please! Order!

Hon. Members, the result of the division is 16 for, 18 against.

Question negatived.

Mr. Speaker: The Bill has been defeated.

ADJOURNMENT

The Minister of Human Development, Youth and Culture and Minister of Education (Hon. Ganga Singh): Mr. Speaker, having completed Government's Business as indicated to the hon. Chief Whip, the Member for Diego Martin Central, Mr. Speaker, I beg to move that this House do now adjourn to a date to be fixed.

Mr. Valley: What?

Hon. Members: No way.

Mr. Speaker: Order! Order, please!

Question put.

[Calls for Division]

Mr. Speaker: I think the ayes have it. *[Continued calls for Division]* Let me say hon. Members that the matters that were placed on the Order Paper and agreed to by both sides of the House were dealt with in this honourable House.

Adjournment
[MR. SPEAKER]

Friday, October 05, 2001

The Government that is responsible for the order and the business of this House has moved an adjournment of the House which suggests that the Government, except on a Private Members' Day, which is the fourth Friday of every month, has completed its business, and, as such, indicates that it has no other business to be conducted today.

So hon. Members, this House now stands adjourned—

Hon. Members: No! No! No!

Mr. Speaker: —to a date to be fixed.

Hon. Members: No! No!

Mr. Speaker: Order!

Hon. Members: No! No! No!

Mr. Speaker: Order!

Hon. Members: No! No! No!

Mr. Speaker: Order!

Mr. Valley: Division! Take the vote!

Dr. Rowley: Division.

Mr. Valley: Next division.

House adjourned accordingly.

Adjourned at 4.01 p.m.