

*Leave of Absence**Tuesday, June 24, 1997***SENATE***Tuesday, June 24, 1997*

The Senate met at 1.34 p.m.

PRAYERS**[MR PRESIDENT in the Chair]****LEAVE OF ABSENCE**

Mr. President: Hon. Senators, leave of absence has been granted to the following Senators: Sen. Philip Marshall, from June 21 to June 24, 1997; the Minister of Works and Transport (Sen. The Hon. Sadiq Baksh), from June 18 to June 26; and the Minister of Public Administration and Information (Sen. The Hon. Wade Mark), from June 21 to June 28.

SENATOR'S APPOINTMENT

Mr. President: I have received the following communication from the office of His Excellency the President of the Republic of Trinidad and Tobago, as follows:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON,
President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

To: DR. JOHN BHARATH

WHEREAS Senator Sadiq Baksh is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOHN BHARATH, to be temporarily a member of the Senate, with effect from June 24, 1997 and continuing during the absence from Trinidad and Tobago of the said Senator Sadiq Baksh.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the President,
St. Ann's, this 23rd day of June, 1997."

Oath of Allegiance

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OATH OF ALLEGIANCE

Mr. President: Hon. Senators, before I ask you to rise for the swearing in of Dr. Bharath, I want to get leave of hon. Senators to deal with another swearing in later on in the proceedings as the other hon. Senator is not here just yet.

Sen. John Bharath took and subscribed the Oath of Allegiance as required by law.

1.40 p.m.

PETITION

Caribbean Union College

Sen. Penelope Beckles: Mr. President, I beg to present this petition on behalf of the Caribbean Union College of Maracas Valley, St. Joseph.

I now ask that the Clerk be permitted to read the petition and that the promoters be allowed to proceed.

Petition read.

Question put and agreed to, That the promoters be allowed to proceed.

PAPERS LAID

1. Report of the Auditor General on the accounts of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 1992. [*The Minister of Finance (Sen. The Hon. Brian Kuei Tung)*].
2. Report of the Auditor General on the accounts of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 1993. [*Hon. B. Kuei Tung*]
3. Report of the Law Commission of Trinidad and Tobago for the period January 1995—December, 1996. [*Hon. B. Kuei Tung*]

POUNDS (AMDT.) BILL

Bill to amend the Pounds Act, Chap. 67:03, [*The Minister of Agriculture, Land and Marine Resources*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate. [Hon. B. Kuei Tung]

Question put and agreed to.

ENVIRONMENTAL POLLUTION

[SIXTH DAY]

Order read for resuming adjourned debate on question [January 21, 1997]:

Whereas the Government of Trinidad and Tobago has adopted sustainable development as a national goal; and

Whereas sustainable development aims at meeting current and future needs of citizens while minimizing negative environmental impacts; and

Whereas there continues to be widespread practice of environmentally dangerous activities nationally, especially pollution of both built and natural environments, prejudicial to the health and wealth of present and future generations; and

Whereas the work of the Environmental Management Authority has had no demonstrable positive influence on the solution of major environmental pollution problems;

Be it resolved that Government make a full statement to this Senate on its policy for prompt and effective management of the general pollution problem;

Be it resolved that Government invoke section 5 of the Environmental Management Act of 1995 and direct the Authority both generally and specifically to concentrate its efforts in the area of environmental pollution.

Question again proposed.

Mr. President: The debate has concluded on this matter and it is only left to me to put the question. Before doing so, I understand there are certain requests to be made.

Sen. Carol Cuffy-Dowlat: Mr. President, I wish to withdraw the proposed amendment to the Motion.

Mr. President: Hon. Senators, the proposed amendment can only be withdrawn by leave of the House being granted, not by putting the question, but asking the pleasure of the House. Is it therefore the pleasure of the House that the proposed amendment be withdrawn?

Assent indicated.

Sen. Prof. Kenneth Ramchand: Mr. President, I wish to withdraw the amendment proposed by Sen. Marshall and seconded by myself.

Mr. President: Is it the pleasure of the House that the proposed amendment be withdrawn?

Assent indicated.

Question put and agreed to.

Resolved:

That Government make a full statement to this House on its policy for prompt and effective management of the general pollution problem;

Further resolved:

That Government invoke section 5 of the Environmental Management Act of 1995 and direct the Authority both generally and specifically to concentrate its efforts in the area of environmental pollution.

1.50 p.m.

ARRANGEMENT OF BUSINESS

Mr. President: Hon. Senators, the next Private Member's Motion is in the name of Sen. Prof. John Spence who has been granted leave of absence from June 15 to July 3, 1997. We would therefore now go on to deal with Government Business.

Agreed to.

CRIMINAL LAW (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [June 10, 1997]:

Question again proposed.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, you would recall that when the debate on this Bill was adjourned, I had indicated that I was very thankful for the contributions which were made by the Senators, especially on the other side, and that I was going to consider the points which were raised.

May I say, Mr. President, that although the policy was there in the drafting, the comments and the suggestions which have been made by the other side, and especially by Sen. Martin Daly, have helped us to improve on the drafting of the section and I hope that this would meet the approval of the Senators. I will deal

with it at committee stage, but may I, just for the purposes of the record, state that the section has been redrafted to reflect the policy and it now reads:

Clause 2A(1): (i) Delete subclause (1) and substitute as follows:

"(1) Where a person embarks upon the commission of an arrestable offence involving violence and someone is killed in the course of furtherance of that offence (or any other arrestable offence involving violence), he and all other persons engaged in the course or furtherance of the commission of that arrestable offence (or any other arrestable offence involving violence) are liable to be convicted of murder, even if the killing was done without intent to kill or to cause grievous bodily harm."

2A(2) Add after the words "arrestable offence" the words "involving violence".

Mr. President, may I say, it shows with the putting together of our minds and with the sense of co-operation what we can achieve. As I understand it, this is what a Parliament is all about; to get the views of all and consider these views and to see whether the Bills which are passed are in the best possible form.

Mr. President, I beg to move that the Bill to amend the Criminal Law Act, Chap. 10:04 be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. Chairman: I understand that there are proposed amendments circulated by the hon. Attorney General.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 2A(1) of the Bill be amended in terms of circulated draft, as follows:

First ColumnSecond Column

Clause

Extent of Amendment

Clause 2A(1):

(i) Delete subclause (1) and

substitute as follows:

"(1) Where a person embarks upon the commission of an arrestable offence involving violence and someone is killed in the course of furtherance of that offence (or any other arrestable offence involving violence), he and all other persons engaged in the course or furtherance of the commission of that arrestable offence (or any other arrestable offence involving violence) are liable to be convicted of murder, even if the killing was done without intent to kill or to cause grievous bodily harm."

Mr. Chairman, I beg to move that clause 2A(2) of the Bill be amended as follows:

2A(2)

Add after the words "arrestable offence" the words "involving violence".

Mr. Chairman, may I just mention that in the House there was already an amendment to the clause 2A(2) and to 2(3)(d). I just wanted to make sure that is—

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Senate resumed.

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

ARRANGEMENT OF BUSINESS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, may I indicate that there has been an agreement that contributions to the debates on a Bill to amend the Registration of Clubs Act, a Bill to amend the Theatres and Dance Halls Act, a Bill to amend the Liquor Licences Act, will be taken together. Each Bill will be moved separately at the Committee Stage.

Agreed to.

2.00 p.m.

REGISTRATION OF CLUBS (AMDT.) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That a Bill to amend the Registration of Clubs Act, Chapter 21:01 be read a second time.

Mr. President, the Liquor Licences (Amdt.) Bill, the Registration of Clubs (Amdt.) Bill and the Theatres and Dance Halls (Amdt.) Bill, seek to amend the principal Acts, namely the Liquor Licences Act, Chap. 84:10; the Registration of Clubs Act, Chap. 21:01 and the Theatres and Dance Halls Act, Chap. 21:03, by making it unlawful for a licensee to discriminate against a member of the public who has access to the licensed premises, on the grounds of race, colour, religion or sex and to empower the licensing authority or committee to suspend or cancel a licence and in the case of a club, to strike its name off the register if it is found guilty of discrimination or if there are facts to support the allegations of discrimination. It gives to the person aggrieved, a right of appeal to the Court of Appeal, against any order of the licensing authority or committee.

Mr. President, these amendments have become necessary because of complaints over the years in which there have been allegations of acts of discrimination practised by certain clubs and places of entertainment to which the public has access. There have been investigations conducted by the police and they found that there were facts to support the allegations, but the law was not in place in order to deal with clubs and entertainment houses which practise discrimination. It is in this context that these Bills were drafted, approved by Cabinet and went out for public comment. After the period passed for the public to comment on them,

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Cabinet took a decision for the Bills to be introduced in Parliament. These Bills were debated in the other place and received the support of the Opposition and are now before the honourable Senate.

Mr. President, the central theme of these Bills is the prohibition of discrimination against persons on the basis of race, colour religion or sex. The licensing authority or committee, on a complaint by an aggrieved person, would have to hear the allegations. From the Bills and their amendments one would see that a right to hearing is specifically given. As a matter of fact, it was presumed by the common law that such a right existed, but because of the concerns which have been raised, that if this right were not expressly stated, there could have been some doubt that the amendments demonstrate that the right to a hearing, by anyone who is going to be affected by any decision made, is given.

Mr. President, the Liquor Licences Act was first enacted in November 1955. It was a measure to control the sale of intoxicating liquor by licences. Many amendments have been made to the Act since then, but none dealt with the problem of discrimination practised by the licensee. One knows that the law ought to move with the times and should not lag behind, and it is in this context that we are dealing with this amendment today in respect of the Liquor Licences Act.

By clause 3 of the Bill, the Act is amended by inserting section 21A which deals with the suspension and revocation of a licence and makes provision for a licensing committee to suspend or revoke a licence if satisfied that the conduct of any trade or business on licensed premises to which the public has access, is contrary to provisions of section 21B. The licensing committee may attach such conditions to the terms of suspension so as to ensure that section 21B is complied with, but no suspension of any licence should exceed the period of more than 21 consecutive days or 42 days altogether in respect of any one complaint or group of complaints. The licensing committee may revoke the licence if the conditions imposed have not be complied with.

Mr. President, section 21B deals with discrimination on licensed premises by the owner, occupier, his servants, agents or his associates and the prohibition of such discrimination on grounds of race, colour, sex or religion. The section includes the definition of certain relevant words such as associates, discrimination and licensed premises.

Section 21C deals with appeals from an order of the licensing committee to the Court of Appeal. One would see from the list of amendments made in the House of

Representatives, that apart from 21A(4) and (5), there have been some tidying up to the drafting. With respect to clause 2, section 4A(1) there is a specific right to a hearing:

"(1)(a) Where a complaint has been made against the licensee under subsection (1), the Licensing Authority shall summon the licensee to appear before it on the date set for the hearing of the complaint to respond to the allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law."

Section 4A(4) was deleted and a new subsection was added to section 21A and that subsection reads:

"The Minister may, by Order, subject to affirmative resolution of Parliament, amend subsection (3) to increase the grounds on which a person may claim to have been discriminated against."

What occurred was, there were feelings expressed that there should be additional grounds of discrimination. What we did, therefore, is to give Parliament an opportunity by having an affirmative resolution from time to time, to consider amendments to enlarge the grounds of discrimination.

In clause 4 one sees that we have an amendment which was done in the other place for the Minister to make regulations for the effective carrying out of section 21A, subject to the affirmative resolution of Parliament.

The Registration of Clubs Act, like the Liquor Licences Act, was enacted in November 1955 and relates to the registration of clubs and the control of the supply and sale of intoxicated liquor in clubs. This control is achieved by licensing committees constituted under the authority of the Liquor Licences Act.

Mr. President, clause 2 of this Bill is to amend the principal Act by inserting new sections. Section 14A deals with the striking off of a club from the register and makes provision for such striking off by a licensing committee if satisfied that the conduct of any trade or business on premises to which the public has access is contrary to the provisions of section 14B.

2.10 p.m.

Mr. President, this may be an appropriate time for me to say that in dealing with the Registration of Clubs (Amdt.) Bill, one had to recognize that the freedom of

association in a private members' club involves the right not to associate and, therefore, one could not compel by legislation unless there was a constitutional amendment. Even if there was, one would have to consider whether that could be reasonably justifiable in a society that has proper respect for the rights of individuals.

It is in that context, as far as members' clubs are concerned, one cannot dictate in relation to those clubs who should be its members and with whom members should associate or not. Where those clubs perform activities in which the public has access to them on special occasions—I will show how we have done that a little later—then the principles are that the Act would apply if there is discrimination.

Section 14B deals with discrimination on the premises of a registered club under the Act and the prohibition of such discrimination on the grounds of race, colour, religion or sex. Similar to the Liquor Licences (Amdt.) Bill, the words “associates” and “discrimination” are defined in similar terms.

The amendment in clause 2, section 14A(3) reads:

“Where a members' club, whether generally or on special occasions, gives access to the public at large or any section of the public to the whole or any part of its premises, any trade or business conducted thereon shall be done so as not to contravene section 14B.”

Mr. President, when one looks also at the amendments which were done in the House, one sees that clause was amended and it states:

“Subject to subsection (3)(a) where a members' club proposes to give the public, or any section of the public, access to the whole or any part of its premises, on any special occasion, it shall first obtain the permission of a Magistrate and—

- (a) any trade or business conducted thereon; or
 - (b) where the club is used for purposes other than that of a members' club, as defined in section 2 of this Act, such trade, business or purpose shall be done or carried out in such a manner so as not to contravene section 14B.
- (3)(a) For the purposes of subsection (3) the members' club shall pay a fee of one thousand dollars.
- (3)(b) A members' club which contravenes the provisions of subsection (3)(a) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars.”

Mr. President, what happened in practice is that a number of members' clubs were being used for business purposes and, therefore, the Government decided that in cases where a members' club proposed to give to the public or any section of the public access to the whole or any part of its premises on any special occasion, that the permission of a Magistrate had to be obtained for which a fee of \$1,000 is proposed. In any event, if the club has to sell alcohol, it would still have to be subjected to the provisions of the Liquor Licences Act on any special occasion.

Mr. President, section 14C of the Bill gives anyone who is dissatisfied—any aggrieved individual—by any order made in accordance with the provisions of the Bill, a right of appeal to the Court of Appeal.

Mr. President, I should also mention that in respect to the Registration of Clubs (Amdt.) Bill, the amendments which were made in the House would show that by clause 2 of the Bill, it expressly states that a person who is going to be affected is entitled to be represented and to be able to respond to the allegations which have been made against him and he can either represent himself or be represented by an attorney-at-law.

The Bill also provides for the grounds on which a person may claim to have been discriminated against to be enlarged and this can be done by an order made by the Minister, subject to an affirmative resolution of the Parliament.

There is also the provision in a new clause 3 which was effected in the House which states:

“3. The Registration of Clubs Act is amended in section 22 by renumbering paragraph (g) as paragraph (h) and inserting a new paragraph (g)...”

That is to make regulations for the more effective carrying out of the Act. Mr. President, that basically deals with the Registration of Clubs (Amdt.) Bill.

Mr. President, the Theatres and Dance Halls Act is the oldest of these three Acts being amended, enacted in January 1935, some 62 years ago. Its purpose was to regulate the use of theatres, dance halls and other places of entertainment and to provide for such use under licence.

Mr. President, clause 2 of the Bill is proposed to amend the principal Act by inserting new sections. Section 4A empowers the Licensing Authority to suspend

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the licence for 21 consecutive days or 42 days altogether for one complaint or group of complaints and to attach conditions to any suspension imposed, to cancel licence if conditions imposed are not complied with. Similarly, in respect of the other two Bills.

Section 4B deals with discrimination on the licensed premises by the owner, occupier or any of his servants, agents or associates and makes the provision for the prohibition of such discrimination on the grounds alleged in the Bill. Section 4C gives the right of appeal to the Court of Appeal from an order of the Licensing Authority.

Like the other Bills, it provides for a right to know the person against whom the allegations are being made and for the person to represent himself or by an attorney-at-law. It also gives the power to enlarge the grounds of discrimination from time to time and gives that power to the Minister that he can only exercise it by agreement in Parliament by affirmative resolution.

Mr. President, these Bills, therefore, attempt to alleviate some of the sufferings that have been found to exist as a result of discrimination. The Government recognizes that in dealing with these issues, that legislation itself cannot deal with them. This is a specific problem and in respect of these matters the Government has decided that the law had to be strengthened in this way in order to provide some machinery in dealing with this problem.

2.20 p.m.

Mr. President, there was a Working Paper on Equal Opportunity Legislation which was prepared by the Law Commission in 1996 and that paper concluded with these words:

“It is therefore felt that the existing anti-discrimination provisions of the Constitution need to be buttressed, the lacuna in the law filled, particularly with respect to private actions, the areas of activities in which discrimination becomes actionable—expanded and an administrative, investigative and quasi-judicial body established by act of Parliament.”

The paper continued:

“In a society rich in diversity such as ours, it is important to safeguard the integrity of different races, social groups of men and women from unjust and unequal treatment and the denial of equal opportunity. Equally important is the need to arrest institutionalized and historically entrenched patterns of discrimination, all of which is evident in Trinidad and Tobago’s society in varying degrees.”

Mr. President, I trust that these Bills and reasons behind these Bills would be fully understood by hon. Members of this Chamber and that in an issue such as this which is so important, the hon. Members of the other side would understand the importance of Government providing institutions for the state—they may not be all-embracing or sufficient, in themselves, at this time, but if they are measures that would contribute in promoting equality in our country, in whatever little way, I think these measures are well worth having.

I beg to move.

SENATOR'S APPOINTMENT

Mr. President: Before proposing the question I want to refer to items (2) and (3) on the Order Paper, and I want to read the following communication from His Excellency the President.

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON,
President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson

President.

To: MR. VINCENT CABRERA

WHEREAS Senator Wade Mark is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate, with effect from June 24, 1997, and continuing during the absence from Trinidad and Tobago of the said Senator Wade Mark.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 23rd day of
June, 1997."

Oath of Allegiance

Tuesday, June 24, 1997

OATH OF ALLEGIANCE

Sen. Vincent Cabrera took and subscribed the Oath of Allegiance as required by law.

REGISTRATION OF CLUBS (AMDT.) BILL

Question proposed.

Mr. President: Hon. Members are reminded that they can speak on the three Bills.

Sen. Penelope Beckles: Mr. President, I rise to make my contribution on the Registration of Clubs (Amdt.) Bill, the Liquor Licences (Amdt.) Bill and the Theatres and Dance Halls (Amdt.) Bill.

I do recognize the objective, as it relates to these amendments, and that the Government is seeking to make it unlawful for a licensee to discriminate against a member of the public who has access to that particular licensed premises on the grounds of race, colour, religion or sex. While looking over this amendment again, I wondered whether the issue of the disability of an individual should not be one of the grounds that we would also want to consider.

Several times when we pass pieces of legislation, disabled persons and persons who have different types of disabilities are seldom catered for or thought about in a real sense, and I think that sooner or later it would be one of the very serious areas that we have to consider. The other issue is that on the ground of health.

Mr. President, whilst legislation is now being passed in several parts of the world as it relates to persons who are either HIV positive or persons who, in some way, have had the misfortune of having that virus, we have not yet dealt with it in terms of our legislation. We are aware, in terms of statistics coming out of the hospitals and other areas dealing with this virus, that it is a serious cause for concern and the time is coming when we will also have to address those issues, not only as they relate to HIV, but the other medical problems from which persons suffer. Members of the public of Trinidad and Tobago sometimes, because of lack of education, are not familiar with the AIDS virus and, therefore, treat the infected persons in a particular fashion. Whilst it may not have been dealt with in this particular Bill, I think those issues of health and disabilities of persons are areas that we probably want to address.

I did note in one of the amendments, the Attorney General indicated that from time to time, the Minister may make regulations subject to affirmative resolution of Parliament for the effective carrying out of this section. I think this is in relation to the Liquor Licences (Amdt.) Bill. However, under the Theatres and Dance Halls (Amdt.) Bill, there is also an all-inclusive proposed section 4(A) which states:

“(4) The Minister may, by Order, subject to affirmative resolution of Parliament, amend subsection (3) to increase the grounds on which a person may claim to have been discriminated against.”

I think that subsection is a very good one because it gives the Minister, subsequent to any member of the public raising that issue, reason to include other grounds.

2.30 p.m.

Under the Registration of Clubs Bill, in one of the amendments, I think it is (iii), it is stated that: “The Minister may, by order, subject to affirmative resolution of Parliament increase the grounds on which a person may claim to have been discriminated against.”

So whilst I am aware that thought and foresight would have come to bear, in terms of giving the Minister that authority and opportunity to deal with it, I am saying that we may want to look at and consider in the immediate future those two areas mentioned above. I do feel that the time has come when those persons are needed to be given some sort of assurance that when we pass legislation that we do have in our contemplation those particular issues that relate to them.

I am happy that in the amendments, the Attorney General dealt with the whole issue of the Court of Appeal and the right to be heard on appeal. I know that the concern of several club owners was the fact that persons may arbitrarily go to the court and make a complaint and say, “well, I have been to ‘x’ or ‘y’ club and I have been discriminated against.” So I think those persons are quite happy that that particular clause is in place. Of course, once one is familiar with the operations of the Court of Appeal, then applications can be made as they relate to stays of execution to ensure that one’s rights are properly looked after.

The only issue which I think relates to that—and maybe some assurance could be given—is the situation where a person’s club is closed down for a considerable length of time and compensation subsequently has to be paid. I know in most instances where you have persons filing for their own personal false imprisonment,

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and so on, the Attorney General is normally joined as a defendant. I do not know whether in this instance it would be both the defendant and the Attorney General who would be joined, or whether it would be the person who has filed the application. I am sure in many of these instances, these persons may very well be men of straw and therefore that concern would be valid for those persons who have clubs.

The Attorney General mentioned his concerns of some of these clubs operating as businesses. We do know that one of the amendments which took place in December 1995 was in relation to the removal of the days on which liquor could be sold, that is to say, that liquor could now be sold any day, any time. That means that the distinction between the spirit retailer's licence and the special restaurant's licence, has almost become non-existent, because under the spirit retailer's licence that person could have only sold liquor from Monday to Saturday and at special times. Now under the Shop (Opening Hours) (Amdt.) Order, one can sell one's liquor at any place and any time.

In dealing with this issue of discrimination, if we recall, some time last year, this whole issue of discrimination had reached crisis proportion because of several incidents which had happened and students from the University of the West Indies and several other persons marched in front of certain clubs in Trinidad and Tobago, protesting against this alleged discrimination. Like everything else, some of them have become a nine-day wonder. People are saying that discrimination is still taking place, but I suppose some persons have given up, thinking that nothing could really be achieved.

We do have this legislation before this Senate today and I know that some persons feel that this is at least a step in the direction of dealing with the whole issue of discrimination. But we go back to the issue of supervision. I think we are all aware that part of the reason some of these incidents have come into the forefront is that some club owners have, very skilfully, been able to hire sometimes off-duty policemen, sometimes off-duty soldiers and off-duty persons who have had that skill in terms of the whole field of security and, of course, they are now given that famous name known as "bouncers". When the owners do not want certain persons to come into the club, they use these persons to forcibly eject them from their clubs, and those persons, very often, have not been able to successfully seek redress.

The Attorney General indicated that the investigations of the police officers are that they have confirmed that there are several practices of discrimination going on in several clubs of Trinidad and Tobago. We do hope that this legislation would not be one of those pieces of legislation which will just fall by the wayside in terms of the police officers actively pursuing the intent of the legislation. I am sure we are becoming aware—it is almost a habit—that you can have legislation coming to Parliament and being passed and going on our law books, but if we do not actively pursue the legislation to ensure that persons who breach the legislation are penalized, then we may as well not have the legislation at all.

As a matter of fact, some members of the public are of the opinion that this piece of legislation may not actively deal with the issue of the discrimination, if only because there is the whole issue of people's right to associate. So that in any case some club owners could hide behind that issue. Persons are claiming that they have gone to the clubs and they have seen them allowing other persons to go into the clubs and when it is their turn, they are told, "well that person is a member." Sometimes they are actually present to see a business transaction taking place and when it is their turn they are told, "well, look, that person is a member."

We do know that as it relates to the clubs, there are visitors' books and minute books. Therefore, in terms of the issue raised by the Attorney General with regard to the police investigation, I think one of the areas we need to beef up is the whole issue of supervision of these clubs so they are not allowed the defences that they raise very easily, because they are aware that in terms of the supervision, it is not something that is very regular, until an incident happens.

Some time ago there was the death of Jason Johnson in a club and the issue came to the forefront that it was a question of discrimination; then the focus shifts and people begin to discuss it again, and after a couple months it dies a natural death. History has told us that we have to supervise these clubs on a regular basis, particularly now where, according to the legislation, what we are dealing with is a members' club—and that is under the amendment—which proposes to give the public or any section of the public access to the whole or any part of its premises on any special occasion.

What that says is that it is a bit unfortunate that very often we have to almost supervise and be slave masters to ensure that legislation is actually implemented and the objective of the legislation is continued. If we do not do that, then I think the continual ease with which defences have been raised by saying, "well, this is a

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club and these people are members”, we would not be able to successfully implement this piece of legislation.

The Attorney General mentioned, of course, that the legislation is not all embracing. That brings me to the concerns of many members of the public of Trinidad and Tobago as they relate sometimes to the same granting of licences for persons to have fetes. We know that in the carnival season, members of the public sometimes say, well, a person has been granted a licence to have a fete and the walls are cracking; the glasses; the cutlery; several things are being destroyed. During the carnival period, there is the situation where several members of the public actually object to people being granted licences and that has to do with the issue of the extent to which loud music is being played in some of these fetes for which licences are granted.

2.40 p.m.

I know that most of us like our carnival fetes. As we are dealing with these issues of discrimination, I think at some point in time we would have to deal with the issue of legislation, as it relates to the playing of loud music and its effect on persons who live in the area where this loud music is played.

I would now deal with the alleviation of suffering as a result of this discrimination, as the Attorney General stated. I raise that in the context of the work that the Licensing Committee would have to do as it relates to these amendments. About one month ago, the Attorney General brought a piece of legislation dealing with amendments to the Summary Courts Act. This would increase the number of magistrates who would be in our jurisdiction. Once this piece of legislation becomes law and persons are aware of it, it is quite likely that there would be several complaints. The question of applications may arise during the licensing session or the registration of clubs which is done in January every year. It may mean that in terms of dealing with these applications we would have to look at whether or not the courts are adequately staffed with clerks and magistrates to deal with the number of complaints.

I know that in some instances some of the matters are being dealt with expeditiously, but there is also the situation where things are still not the way we would like. You would recall that almost one month ago, on four days of one particular week, the workers at the Port of Spain Magistrates’ Courts stopped attending courts. The Attorney General promised and fulfilled his promise, on that particular occasion to alleviate the problems. Just yesterday the air conditioning

units in those courts were not working. On one hand, whilst efforts are being made to pass and implement legislation to make things easier, on the other hand, there are instances for which we may not always cater. That needs to be looked at urgently. I read in the newspapers that several courts are due to be constructed. The Attorney General indicated that the Port of Spain Magistrates' Court would be moving and that should be dealt with urgently.

Like the Theatres and Dance Halls (Amdt.) Bill, this Bill defines discrimination. It states:

“Discrimination means any inequality of treatment that is less favourable than that accorded to any person or group of persons and which is indicative of an intention to deal with that person or group of persons in a manner that is different from that in which the majority of other persons or a substantial number of persons on any one occasion are treated or dealt with in that respect;”

This definition is similar to that of the Law Commission in the Working Paper On Equal Opportunities.

In all these pieces of legislation the grounds were increased to race, colour, religion and sex. It is good for us to deal with this whole issue of discrimination as it relates to the Liquor Licences Act, the Registration of Clubs Act and the Theatres and Dance Halls Act and I am extremely happy that the ground arises. We would recall that about one month ago it was stated that the women of Trinidad and Tobago must no longer be seen working on the streets.

When we talk about discrimination, that was a serious act of discrimination against our women by this Government. As a matter of fact, I would go so far to say that this Government is discriminating against the women of Trinidad and Tobago. We support this legislation, but the Government says that the women cannot work on the streets. The Government is telling the women what work they can and cannot do. I know that the Attorney General is quite aware that the women in Trinidad and Tobago can equal any task that the men can do. [*Laughter*]

Mr. Maharaj: And more too.

Sen. P. Beckles: As a matter of fact, I hear him saying that the women are doing better than the men these days.

Sen. Kuei Tung: Especially in law.

Sen. P. Beckles: We only have to look at what is happening at the university. Women are now on the battlefield. You can ask the Minister of National Security. Whilst we are dealing with the issue of discrimination, I make the point that we are not objecting to the Minister of Works and Transport allowing the women that flexibility to be trained in different fields. It is excellent to make them more marketable and allow them that opportunity to earn money to feed their families.

We are saying that in 1997 and as we go to 2000, no government, male person, or any person for that matter has a right to tell any woman in Trinidad and Tobago what work she can or cannot do. [*Desk thumping*] As a matter of fact, from time immemorial women have been masons, carpenters, canecutters, labourers and every possible thing that they can do to ensure that the same men receive an education.

Members: True!

Sen. P. Beckles: Women have cooked, washed, ironed and been domestics. Today, if I choose to sweep the roads to make an honest living, or by being a gravedigger or whatever it is, nobody should have the right to tell me that I can no longer do that. That is discrimination.

The pieces of legislation that the Attorney General has before us are commendable. I think it would go a long way in sensitizing the population of the country as to the issue of discrimination.

2.50 p.m.

Whilst we say that Trinidad and Tobago is a multi-racial society where everybody is happy and every creed and race find an equal place, we do know that very often these acts to which the Minister has referred have actually happened. Some people very often use their clubs as disguises for their small circles. I do hope that after this legislation is passed, even though it may not be as easy as we think to implement, those who have it in their minds to discriminate on the grounds of sex, race, colour and religion would certainly think a second time.

We on this side support this amendment, in spite of the concerns which I have raised as they relate to the issue of health and disabilities. I thank you.

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, I support the Bill, but I would like to make two extraneous comments from experience. I ask that you hear me out and not rule me irrelevant.

I have had two interesting experiences brought to my attention, and there is one which I have just conjured up in my mind. What if a person has a members' club, the members are assembled and a patron, not of any particular colour—probably three or four lawyers—come in, and the patrons say, “Daly, Mohammed and Beckles: them is a pack of lawyers. No lawyers. We do not want any lawyers, today.” And they raise a furore. *[Interruption]* Well, I do not want to say the Attorney General. They will put him in a different category. As the maker of the law, they would be scared. What protection is there for the owner of the club if these members insist on making the lawyers uncomfortable? Does he have some recourse, and can perhaps ask them to leave? It may just be patrons. That happens sometimes.

Men are having a good time, probably being bawdy and lewd; they see women coming into the club and they say, “Today we do not want any woman around. All dem woman, come out de club!” The women may go away and say they will sue the owner. The club owner may say that they have freedom of speech, he cannot stop them and that he has no authority under the law to do anything. This may seem as a very far-fetched, crazy thing and may sound like a prank, but it happens. The patron or the member is the one discriminating against the person who comes in.

I have had two little instances related to me over the years. In Tobago, we have a very small society, and everyone knows everyone else. One gentleman called up a certain club and said, “This is so-and-so. I am booking lunch for two.” The person for whom he is booking lunch is probably his Minister of Finance, whom he is taking on a business lunch. *[Laughter]* I am just using this as an example. I am disguising the names of the people. *[Interruption]* No, it is not the Minister of Finance. The owner says: “I am afraid that we are totally booked for lunch.” The Minister of Finance is sitting right there and he takes up the phone. He says, “Look, this is Brian. I am coming for lunch. Book lunch for two!” *[Laughter]* He turns up with the same person who, a minute ago, was turned down. In fact, he might even get the lunch free. *[Laughter]* Do you get the idea? He goes there. How does he feel and what does he say? That actually happened. *[Interruption]* I did not know him and he was not around at the time, so it was not he.

There is another experience. Two gentlemen went to a club which was having a dance. These fair-skinned people were there dancing, and the gentlemen asked the price of entering the dance. They asked if it was a public dance. They were told

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that it was, but that they could not go in. They asked why. They wanted to pay and go in. They are decent law-abiding citizens. They were told, “You have to get a jacket”. They replied, “But there are people in there dancing without jackets.” They are told, “But for you, you have to get jacket.”

What I want to say to you, hon. Attorney General, is that there could be forms of discrimination for which we cannot legislate, but of which we must be mindful. If we have sufficient complaints of discrimination of this nature, when the licensing for these clubs come up, a warning bell could be rung. These owners, operators and their patrons should know that they could put the owner’s licence in jeopardy if they continue with their behaviour. We cannot legislate, but it is good to know.

Thank you very much, Sir, for approving of my irrelevance.

Sen. Dr. Edmund Chamely: Mr. President, mine is a request to the Attorney General for an explanation. Going back to the Registration of Clubs (Amdt.) Bill, and looking at the deletion of clause 14A(3), which has been read several times,

“Subject to subsection 3(a), where a members’ club proposes to give the public, or any section of the public, access to the whole or any part of its premises on any special occasion, it shall first obtain the permission of a Magistrate...

(3)(b) ...the members’ club shall pay a fee of one thousand dollars.”

I am proposing a scenario to you and will ask questions relative to that scenario.

A representative of an NGO makes a request of a members’ club to either rent its premises or get it free of charge to run a function. Am I to understand that the members’ club now has to go to a magistrate for permission? Does the members’ club now have to pay \$1,000 to give me, an NGO, its premises free of charge? That does not sound right. Can we have an explanation, please?

Sen. Martin Daly: Mr. President, as far as I am aware, this may be the only piece of legislation that expressly forbids racial and gender—I prefer gender—discrimination. Sen. Diana Mahabir-Wyatt is not here for me to consult her on the propriety of sex as opposed to gender. As far as I know, this is one of the few occasions on which we are expressly taking steps to prohibit racial and gender discrimination, and I think it is a very laudable day for the Parliament and the people of this country.

3:00 p.m.

While I am in a very happy mood about this, I just want to raise one or two matters relating to these three Bills.

The first is that we have to face the fact that discrimination in clubs and other places of leisure and entertainment has existed in Trinidad and Tobago for donkey's years. In fact, the way in which the society was organized as a pyramid in the colonial days, forced persons who might have wanted to fraternize otherwise to form clubs which had names that carried a message in them. They indicated that they were designed for a particular section of the community, because of the way in which the colonial pyramid was organized. So discrimination in clubs had been with us for a very long time.

However, I think it is important, as we could well indulge in a certain amount of self-congratulation today for passing this very important piece of legislation. I also think it is very important to acknowledge the work of the media in bringing to our attention the question of racial and gender discrimination in the clubs. I have no doubt that this Government, commendable as it is, moved to amend this legislation largely as a result of the award-winning work of a particular journalist on this subject sometime ago within the life of this Government. It is very important that someone acknowledges expressly the work of the media in bringing racial discrimination in clubs to the public.

Indeed, many years ago there was an incident at the Trinidad Country Club which provoked a one-man Commission of Inquiry which was carried out by Mr. Justice Phillips and that too, was as a result of the incident being brought to light by the media. I think it is very important that we emphasize this.

Those persons who practise discrimination and those who, from time to time, have been unmasked by the media, might, to my knowledge, have taken the position that the media should be punished or stopped from writing these reports about discrimination in clubs because their reports are undermining the democratic fabric of the society and indeed, they are also fomenting racial hatred, which is a very difficult subject. Ethnicity is a very difficult subject, and anytime it is discussed openly, there are always a large number of persons saying if one talks about it, one would make persons hate each other worse. Because three persons with red socks are discriminating against the persons with green socks, they are going to hate all the red socks persons, so do not talk about it, do not expose it. That is sweeping under the carpet, discrimination of any kind, and not bringing it

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forward to public scrutiny is really designed to perpetuate discrimination. I am very glad that the media, when it was dealing at great lengths with this matter, did not yield to any suggestions that it was undermining the democratic fabric, or fomenting racial hatred. They are to be congratulated for running the risk of doing this. [*Desk thumping*]

Mr. President, the control of free speech is as difficult as the control of discrimination, and I entirely agree with Sen. Dr. Mc Kenzie that there are many forms of discrimination that cannot be dealt with by legal controls. I will point out that while in general, this legislation is very satisfactory, I will show how difficult it is to control these matters by legal instrument, because it seems to me on fair reading of the definition of discrimination, that we are effectively putting an end to ladies' night. It is going to be very difficulty for a fete promoter to offer half price admission to the first 50 ladies who attend the function. It is a very retrograde step we are taking, and although I am a party to it, I thoroughly disapprove of it.

I am pretty sure that it would entitle a man to say that he went to the fete and was charged twice; or that he went to Kitchener's tent and he was charged and the lady was not charged, which I am sure is unequal treatment, in the sense that he was treated less favourably, and he could probably bring a complaint under the Act. I do not know at the moment under which exception he falls. I mention this, Mr. President, because I want to say a little more about this issue and how it has come before us. That is an example, and sometimes one has to cast the net so wide that one gets rid of benign activities, as well as the extremely malevolent ones that one is trying to outlaw.

I think it is very important to understand that the refusal of persons to clubs and other places of entertainment is sometimes grounded on two other problems which we have in the society, disrespect for women and crime. By now I think everybody knows that I live in the real world. I have passed the age barrier—like some of my colleagues, not all of them—for entry into some of the more attractive clubs. Indeed I had the experience many years ago when I was just within the age barrier to go into a club with a few of my friends from another club and we were barred entry from that club. But we were barred entry by a group of persons—the "bouncers"—who comprised the sons of several of my companions who did not want to be seen dead in this club with the fathers entering, and they discriminated against us in a very, very forcible way. Eventually, we were able to compromise, because the bar had a part which was divided and they allowed all the old men to go in there. So we were discriminated against very badly.

I say this because I want to emphasize that persons who run places of entertainment have a problem also. I understand that it is very fashionable at the moment to blame all club owners and fete promoters for putting persons out and they very easily cry discrimination, but I think it is very important that we bear in mind that quite often, incidents that occur in places of entertainment have to do with disrespect for women and crime, that is to say, the desire by many young persons to carry concealed weapons, which is a justifiable concern for a club owner, fete promoter or other person who is having some sort of event.

I also think, and I do not know what is the parliamentary language—well I think "fondle" is probably parliamentary language for what we may use more robust language for. There is a great problem for young women, and we would have a lot of difficulty in these clubs with the "fondling" of young women and naturally, the proprietors are concerned. It is a very serious matter, Mr. President, and it is hard for persons to understand even now, how demeaning this is to our daughters who attend these clubs, particularly as they do so from as young as 15 and 16 years.

3.10 p.m.

I think it is very important, while we are passing this very laudable legislation, to recognize that people who run places of entertainment—whether they are clubs, calypso tents, fetes—have a very real problem on their hands. I refer to this to express the hope that in the administration of this legislation the police and the authorities are not going to lose their heads. I hope they are going to try to be very balanced and to treat every complaint made under this legislation very carefully. There is no question that there is rampant racial discrimination in clubs in this country, we have all experienced it. Nevertheless, as I have said, I think it is very important in the administration of this legislation that the Government advises the enforcement authorities to be very balanced about it.

It is very easy if one is a fondler or a stabber to hide behind this legislation if the proprietor or the agent of the proprietor, the tent or fete promoter, fearing incidents of this kind attempts to put one out on that basis. It does not matter what colour one is because fondlers and stabbers come in all colours—that is well established—so I just want to sound a word of caution.

I am very pleased that we are finally making a very clear statement in elucidation of the provisions in the Constitution of Trinidad and Tobago about discrimination. I think it is very important, just as we are now setting about to train

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people to deal with the enforcement of the laws in relation to domestic violence, that the Attorney General or the Minister of National Security set about having some training for those who have to enforce these laws, to ensure that the persons who threaten the ordinary little civilized pleasures of our sons and daughters, do not seek refuge behind this legislation. With that said, Mr. President, it is of course very important that we unanimously pass and approve this legislation.

Mr. President, I, too, would like to raise the question of noise. Sen. Diana Mahabir-Wyatt, who unfortunately is not present today, as long ago as June 10, did circulate a proposed amendment to this legislation to add a clause providing for sanctions in the case of excessive noise. I want to emphasize, first of all, that this amendment has been signed by me and re-circulated and it is only in my name because Sen. Diana Mahabir-Wyatt is not here. I want to make it very plain for the records that I am her agent for the purposes of promoting this amendment. As I said, this is Sen. Diana Mahabir-Wyatt's amendment standing in my name due to her absence. We have had an indication from the Government that this amendment would be favourably received, subject to certain changes in relation to how it is framed. Against that background I would only say a few words about it.

There are probably more people in this country—while it is a completely different type of harm than racial, gender or religious discrimination—who suffer from theatres, dance halls and other places of entertainment, *per capita*, as a result of excessive noise, than those who suffer as a result of discrimination. I am not trying to equate the two, one is far more grievous than the other. My colleague's amendment is proposing to take a further step in relation to this problem.

Mr. President, if one lives in an area and maybe only once a year there is a function, well one can deal with it. But there are residential areas in this country where, for the six weeks preceding carnival one gets noise sometimes once or twice a week and usually on weekends, but then on the days leading to carnival one gets the noise every night.

Mr. President, over time there have been letters in the daily newspapers and persons have written to us about the noise problem. I refer, briefly, to a letter of November 18, 1996, which was circulated, I think, to every Member of this Senate, the highest authorities in the land—it certainly indicates so—by someone acting on behalf of the residents of Coblenz Gardens, St. Ann's. I would not read the whole letter, Mr. President, I would just remind Senators. The letter was written to the Attorney General in very polite and unscathing terms. The heading was:

“Re: Liquor Licences (Amdt) Bill, The Registration of Clubs (Amdt.) Bill, Theatres and Dance Halls (Amdt.) Bill.

We, the undersigned, note with interest the proposed amendments to the above mentioned Bills.”

Then they go on to deal with their concerns which are, among other things, intolerable volume of music at venues, conduct of patrons frequenting the venues, parking, garbage and so forth. They spend a lot of time discussing the question of noise. I continue to quote:

“We suggest the following be included in the proposed amendment: Updating of laws relating to the playing of loud music to accommodate the technological ‘improvements’ that have taken place over the past few years.”

They go on to make other suggestions about where fete venues should be located.

I think it is particularly heartening that the Government has responded very positively to an old problem recently highlighted by the media, namely: “Race and gender discrimination in places of entertainment”. I think it is also very heartening that it intends—according to the indications that we have had—to respond to this problem of noise and to take a first step in that direction. On a previous occasion I referred to the new law in Jamaica which is very stringent, indeed, but I certainly do not think today is the day to reopen that.

Mr. President, to echo what the Attorney General said earlier about the Criminal Law (Amdt.) Bill, it is amazing, even among constitutional adversaries, the degree of co-operation and unity of purpose that we can have if we put our heads together and deal with these things. I think the public of Trinidad and Tobago will feel well satisfied to go to bed tonight knowing that we have dealt with race, gender, religious discrimination in the places of entertainment and, similarly, with noise in those places of entertainment.

Mr. President, subject to the amendment which I am proposing for Sen. Diana Mahabir-Wyatt—in the most unqualified and enthusiastic fashion, despite the disappearance of ladies night—I compliment the Attorney General for bringing this legislation and I give it my wholehearted support.

Sen. Prof. Kenneth Ramchand: Mr. President, I have a brief set of comments. First of all, I join other Senators in welcoming this legislation which seeks to prohibit discrimination in clubs and other places of entertainment. I put it

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like that because we are all aware that the problem of discrimination in our society does not exist only in clubs and other places of public entertainment. This seems to me to be the first small step in a right direction and I look forward to further action being taken to lessen discrimination in other areas of the society.

I feel some uncertainty about how effective, in practice, the legislation would be. I have some fears as Sen. Daly does, about the people who will be implementing it, the danger of their going overboard and seeing discrimination where, in fact, what they may be seeing is prejudice.

3.20 p.m.

I think we have a long way to go to wipe out prejudice in the world. A civilized society would recognize that we can legislate against how people behave, the kinds of things they do, but we cannot legislate for what they feel in their hearts. So the legal step of prohibiting discrimination is a beginning towards an even larger problem of how you change people's hearts and get them to not have prejudice at all. You cannot lock me up for my prejudice if I do not do anything to the disadvantage of other people because of it, but still it is a bad thing for me.

I welcome this clear distinction that is being made between discrimination and prejudice and I am linking the determination of the Government to get rid of discrimination with the larger problem of dealing with prejudice. I am seeing this again, as a step in the right direction: whether the new laws are effective or not, an offence exists and people's consciences are going to be sensitized.

Mr. President, I agree with Sen. Daly and I am sure that Sen. Diana Mahabir-Wyatt would join us, that it might be a good idea to change the word "sex" and use the word "gender" instead. This seems to be a practice all over the world now.

I also agree with Sen. Dr. Mc Kenzie that there are forms and moments of discrimination that it is difficult to legislate against. For example, if one is not wearing a jacket or a tie, I think that perhaps we can find a way to legislate against that, by insisting that there should be a notice saying, "Dress code in effect" and specify what would not be accepted. So that when one goes there nobody could say, "you are not properly dressed." I hope the Attorney General could find a way to make a reference to "dress" as a ground of discrimination with a rider that the dress code be notified to the general public, certainly letting them know what kind of dress is not allowed.

I think, too, that there ought to be a reference to "class" among the grounds of discrimination. Obviously, "class" has a connection with "race, colour and dress"

but I think we should play it safe by including “class” as one of the grounds of discrimination. Many people know that you may go to a fete and they would say, “Tonight is chutney night, and you are looking like a chinee”. This is a crude reference to culture, I imagine. I think we could put in something about discrimination on the grounds of culture too. So, I would like to increase the grounds of discrimination to include; “dress, class and culture”.

Finally, I would like to refer to Sen. Diana Mahabir-Wyatt’s amendment concerning noise and say that I am supportive of it. There is a club across the river from me and they really play some good music and I enjoy it. It is way across the river but it comes wafting to my house and I love it up to about midnight. After that, not only are they playing the same tunes all over and over again, but I really feel I need a rest. So I would like to support the amendment about noise. Grant people the privilege to make noise up to a certain time. If you can introduce a time factor in that amendment, I think we would not get into that kind of debate where somebody says; “It is not really too loud you know. You could say that it is after 2.00 a.m. The time factor would give you a pretty solid argument when you go to people and say, “There is too much noise”. It must not be whether it is too loud, it should be a question of, it is 2.00 a.m..

Mr. President, those are all the comments I choose to make. Once again I congratulate the Government on introducing this legislation.

I thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, I, too, would like to congratulate the Government for bringing to this honourable Senate, what I consider to be a historically significant piece of legislation. I agree with Sen. Daly on that. The legislation is designed to deter and eliminate racial discrimination in public places such as dance halls, clubs and business places that sell liquor or other such venues to which the public would have access. I am very disturbed and I am certain that our society is also disturbed and troubled that activities in certain places of recreation and entertainment in this rainbow country, as it were, seem to promote ethnic segregation of some kind.

I compliment the Government for taking swift action with respect to those recent complaints of discrimination in certain clubs. Mr. President, I hope this legislation would be the beginning of an exercise that we certainly need in Trinidad and Tobago in order to ensure communal harmony and peace. We are reminded today, because of this history-making exercise, that we have a very long way to go

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in creating a community of mutual love and sincere acceptance of our neighbour. I want to draw to the Attorney General's attention, one or two observations I have on this most important subject. I am not going to walk the dotted line because I believe that it is so very important in our consideration of this very broad topic today.

Recently, so many accusations have been levelled against the Government. There have been continuous allegations of racial discrimination levelled against the Government with respect to the appointment of Chief Executive Officers and the Chairpersons of state enterprises. I would not like this to continue. We are talking about dance halls, prejudice, racial discrimination, allegations against the Government of that kind of bias. Is it an unwritten rule, a convention that CEO's must change with a new Government? I believe that there is need for boards of state enterprises to be free from political manipulation, that state enterprises belong to the people of Trinidad and Tobago and boards are not the instrument of any party in power. That is very important. I think the Government needs to formulate some definite policy concerning the tenure of the Chairpersons of these state boards. That is one observation. I know this is one of the questions that Government has been trying to answer for the longest while. It is not merely the changing of the Chairpersons but the more serious question of racial discrimination.

Also, I want to make a general comment. It is not only about the 1969 Country Club Affair or Club Coconuts, it is beyond the entertainment clubs that we are focussing. I express this opinion and I know there are many others who concur with me in this interpretation of our history. We are looking at certain entertainment clubs, trying to discourage racial discrimination and the other three categories listed which are colour, religion and gender.

3.30 p.m.

I want to refer to two clubs in Trinidad and Tobago. Two other clubs that need to be carefully monitored; we have ignored them. Two clubs whose proprietors have exploited the ethnic composition of our society to keep their business operations going. These two clubs need serious attention. Their bouncers and their "chuckouters" carry out faithfully the duties dictated by their bosses. Two clubs with their deejays and their privileged patrons who have party cards. Two clubs dating from 1956 which have sinfully exploited race and class to promote themselves. Those are clubs that need attention, Mr. President. These major clubs that have exploited this society, and kept the major races divided in order to keep themselves and to promote themselves in power, are very important.

On this score, I want to draw to the attention of the hon. Attorney General the need for some kind of legislation—possibly a new parliamentary convention—to deal with politicians who may be inclined to use race as an instrument in their lust for power. Only yesterday—do not force me to call the name of the newspaper, I have it in front of me—on Monday, July 23, 1997 the man in the street was saying something about this.

“I will tell you where there is racism in this country. Racism is bred and fostered in the minds of those people who are in authority. People who have influence over others and use the word RACISM to achieve their own selfish goals and ideals, to divide and rule as it were. Here in Trinidad, racism is in PARLIAMENT.

In this multi-ethnic, multi-racial and multi-religious country, it is human nature that one person from one race will not necessarily like a person from another race which inevitably stems from a difference of opinion or one person’s attitude to another and in times of an altercation, racial obscenities are bandied about.

But this is not racism in the true sense of the word. This is just the result of our so called leaders who have over the years failed to cultivate and educate the nation's children in the true meaning of brotherhood and humanity."

Mr. President: Since you are reading a quotation into the *Hansard*, you are obliged to give the source.

Sen. Rev. D. Teelucksingh: It is the *Trinidad Guardian* of Monday, June 23, 1997; page 11. Mr. President, within recent times there has been a vociferous call within the parliamentary chamber for truth. Even Parliamentarians have been calling for truth in parliamentary disclosure; transparency in speech and action. We need an equally vociferous call for purity in political motive and action vis-à-vis race relations. It is most important.

I will not forget the annual problem we have—not only of two days, but for several months—where our calypsonians have been accused of using the idiom of race in their social commentary. Sometimes explicitly or implicitly fanning the flames of racial discrimination and prejudice, encouraging suspicion and possibly inciting hatred. We have enough of that. They do no good at all in the cause of ethnic harmony. As it is out of the carnival season, this is a good time for us to make reference while they are preparing for the next season. It is one topic of which we have had enough.

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Mr. President, there can be found incipient discrimination in some of the schools in Trinidad and Tobago. It is not only in clubs. We need to address the whole question of the home and the school. Who are the ones in some of these clubs who have been practising discrimination of some kind, or prejudice? Young people. Some of them go to colleges and high schools. Where have they learned this? Is it in the school, or is it in their home? That is a very important question and a challenge to parents and teachers to co-operate, because we have to find the root of it. It did not start in the club. There are school children who have been at these parties and practise discrimination and prejudice against their peers. This is so very important for us to look into; home and school.

In supporting these Bills, I join with all Members of this honourable Senate who unreservedly condemn any form of discrimination in Trinidad and Tobago, whether race, colour, religion or gender.

I thank you very much.

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. President, I am only forced to my feet in support of this Bill because of a statement made by Rev. Teelucksingh, which I suspect has a great deal to do with me. You see, I think that we welcome the opportunity to do this, not so much because we were prompted by the media—although as Sen. Daly says the media had a very great hand in how this thing came about—but it is something that has caused us a great deal of grief in terms of how we were going to formulate this, and more importantly, how we were going to address some of the problems that conflict this society today.

When we spoke of national unity, many of them were quick to criticize us and laugh at us because they felt we were just trying to be political. I know that a great deal of charges have been levelled at me as Corporation Sole for the role that I have played, which incidentally has been misunderstood, in terms of any racial discrimination with respect to the appointment, firing, or otherwise, of chief executive officers and chairmen in state enterprises.

The reason I want to do that is because I want to go on record as saying that I used to belong to the other side, and the other side, as we all know—barring one or two very notable exceptions—is comprised of one ethnic mix. I was welcome there, I worked willingly with them, and I was part of the Cabinet that selected chief executive officers and chairmen; I was never accused of any racial discrimination at that time. I am now in another Cabinet and I am also part of the

Cabinet that appoints chief executive officers and chairmen, but suddenly, I am discriminating.

One thing I can say is that I have worked with every single race in this country and have never been accused, until that side recognized that I was on this side, and I should have been on their side. I am sorry. They will remain on that side for as long as I have every opportunity, because it is unfair for them to point a finger at me and say that I have appointed people only of a particular race. It is not fair to say that. We have tried to find policies, and I have been a Member of both Cabinets that will say, "We want people who best represent and who are best able." That is the one policy that has been consistent in both. If they accuse us of being racial, or discriminatory, then I want them to be aware that they are looking in a mirror.

I have seen both sides, and the policy has been consistent. We want the best people, but we also want people, unfortunately, who would have supported our policies and philosophy. It went for both sides.

3.40 p.m.

The PNM did it when I was in their Cabinet, and the UNC/NAR is doing it now that they are there and there is nothing wrong with it. It so happens that the majority of support seems to have come from a particular ethnic group. So to accuse me in particular, as Corporation Sole, of practising some kind of discrimination because CEOs of a particular—

Sen. Mohammed: Mr. President, on a point of clarification. The hon. Minister is making a statement, and I cannot recall during today's session hearing any Senator on this side accusing the hon. Minister of Finance and Minister of Tourism of any particular act of discrimination. Just as a point of clarification.

Hon. B. Kuei Tung: Mr. President, I never said that they made that statement today, but that statement has been bandied around for a long time now, for all of 1996, that we have been firing CEOs because of the colour of their skin. I will tell you, the one thing that I know that is common to both, is that we will always discriminate against people of corruption, of nepotism, of people who see these institutions—

Sen. Mohammed: What about those who lie in Parliament.

Hon. B. Kuei Tung: Of people who see these state institutions as being their own personal fiefdom and think that they can run these state enterprises as if they own them. That is what we will be discriminating against and that is what I have been chapping against. Believe you me, if I find any chairman or any CEO who is using the state enterprises funds as his own, and thinks that he can be corrupt, or otherwise, I would be the first to fire him. I make no apologies for that. Whether he was appointed by this Government or by their government it does not matter, we will not tolerate it. In the past we have had to get rid of CEOs and chairmen, in particular, who have felt that these state enterprises—I do not know why they have arrived at this conclusion—are their own personal fiefdoms, and they have felt that they were not subject to any form of accountability, or any form of transparency; we will not accept that.

There are still public institutions today—and I will not name any—if you go in there, everyone from managing director or president down to the lowest, is of one particular hue. Is that fair? I have to question the employment practices of some of these institutions, and these institutions are fairly well-known. We cannot hide this. Someone says we have been hiding under the carpet, it cannot be hidden anymore. It cannot, and we will not accept that these institutions represent the kind of rainbow country that Sen. Rev. Teelucksingh talks about. If we are a rainbow country, then every man must have an opportunity for employment in Trinidad and Tobago, regardless of his ethnic origin

I agree with Sen. Ramchand that maybe we should add "dress, class and culture". I have added looks, rather facetiously, but I was serious because I want to ask, what about habits? Can we look at someone and say, well I do not want you in here because your cleanliness is suspect? And I can go on. What about the disfigured person? The reason I raised this is that one really wants to have a cut off point. I think we feel that discrimination on the grounds of race, gender—notice I did not say sex—religion or otherwise, is really not tolerable. It is not tolerable by any member of society, but some of these reach the point where one has to start building tolerance in our society and we are becoming more and more a very intolerable society, where people are becoming extremely impatient with each other.

I know, for argument's sake, there was a young child who was burned as a baby and very badly disfigured. She is lucky to be alive today. She goes to my son's school and you know how children can be cruel. They are as blatant as they can be, in the sense that they say the most cruel things to this poor little girl, and

poor thing, she has got to grow up in a society where little by little, if we do not teach our children properly we are going to become more and more intolerant and, therefore, we have to leave room for the society to move. I think we have to teach people to become more and more tolerant of things like dress, class, culture and looks. I hope that you will understand the need for us to have kept it in the form it is at present and hope that we would continue to enjoy your support in this area.

I thank you very much, Mr. President.

Sen. Nirupa Oudit: Mr. President, I want to add very brief comments on this Bill. May I say that as a woman of this country, I am extremely pleased to support this Bill. The debate is centred around entertainment and recreation clubs, but, are members of this Senate aware that there are sports clubs in this country which are going to have to adjust their membership policies as a result of this legislation? Is this Senate aware that these sports clubs, to this day, do not allow women members? I will not use parliamentary privilege, Mr. President, to name any of these clubs. I think the issue of parliamentary privilege, what can reach the courts of law and what cannot, is being debated right now and I do not wish to be a part of that issue, but one of these clubs in particular, we can walk to from here.

Secondly, although women members are not allowed in that club the same club has absolutely no problem with allowing women to pay to see matches at their premises. The third clue I would give is that there is a sign in their pavilion which says, no admission to ladies and dogs. Thank goodness we are now in a position to take that sign down. Well done to the Government.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, may I express, on behalf of the Government, our thanks for the contributions made. After listening to the Sen. Rev. Daniel Teelucksingh we agree with him in that there have been these allegations of racism and discrimination and we have buried these things in the sand. We have not been able to deal with it openly. The difference with this administration—and when he was talking I was wondering whether he was not a member of the UNC, because he talked like a member of the UNC. I am glad he was converted, he had that philosophy. His heart is in the right place.

Mr. President, quite seriously, he is correct, for far too long we have buried these matters. We have been trying to set up institutions, machinery and set mechanisms in place in order to bring out these allegations, and this is only the beginning. As a matter of fact, as Sen. Martin Daly mentioned, yes, it is the first effort made in the history of Trinidad and Tobago, in order to deal with these

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matters in this way. As we all know, the Constitution of Trinidad and Tobago prohibits discrimination by the state, any state authority or any agent of the state exercising coercive powers.

This piece of legislation has to do with discrimination by the private sector—if I may use that expression—that is, non-governmental agencies. If, for example, it was a governmental agency or agencies, you could have alleged that there was a denial of equality, but in respect of discrimination by a private individual, a licensee or owner of a club, one cannot use the Constitution because it does not give rights to an individual who is aggrieved by the acts of a private individual; only if the discrimination occurs by the state.

It is in this context that these pieces of legislation are important. I agree with Sen. Daly, it is very difficult for legislation to really eradicate discrimination. As Sen. Ramchand mentioned, it comes from the heart and it also has a lot to do with education, with instilling values into our people. One would have to go at the education system and ensure that with respect to the education system that it is so geared that people would understand, even at a very young age—young people would understand—the need to get rid of any of these prejudices, conscious or unconscious, in order for the country and the human resource to be used to its maximum.

3.50 p.m.

Mr. President, this administration has recognized that governmental institutions and other non-governmental institutions must conduct themselves in such a way that discrimination would be minimized and eradicated. If there are allegations in respect to that, there must be some machinery for them to be dealt with. It is in this context, that—apart from this legislation—we have announced the setting up of an equal opportunities commission which would be given the power to investigate discrimination on any grounds. As the other side and the Independent Senators would know, a draft Bill has been published for public comment, there is a parliamentary committee sitting and one hopes that in the not too distant future, we will have this commission.

In South Africa, although there were diverse cultures, religious beliefs and ethnicity, when the new South Africa came into being, President Mandela recognized that racism could no longer be kept under the carpet, it had to be brought out and the society had to purge itself. What did the new South Africa do? It set up a Truth and Reconciliation Commission which encouraged people to come forth and talk about all sorts of discriminations and wrongs which were done

in the society. The reason for doing this was so the nation could come to terms with itself; these facts, racism and other forms of discrimination had to be confronted. As a matter of fact, in the new South African constitution there is specifically enshrined an equal opportunities commission where allegations of racism and other forms of discrimination could be dealt with.

This is not the only thing the Government is doing. As Rev. Daniel Teelucksingh said, there must be truth, purity and accountability in government. This is exactly what we have embarked upon. Which country in the Caribbean has announced that it is so committed to openness and transparency in Government that it is going to set up a committee system of Parliament which would consist of all Members of Parliament, from all sides, through which the people, through their representatives, would be able to scrutinize and monitor governmental action? None! As a matter of fact, within the next few weeks, those measures would be introduced to the public and thereafter, in Parliament.

Legislation and amendment to the Standing Orders of the Senate and of the House of Representatives have been drafted and they are going to be introduced with the hope that they become law, so that the people of Trinidad and Tobago would be able to truly participate in the democracy of Trinidad and Tobago.

Yes, we agree that racism and discrimination is the greatest blight that any society could have. We have demonstrated by our actions that we are committed to, at least, trying to eradicate it, because we recognize that it is only if all the people of Trinidad and Tobago get together, unite and move forward, that we would be able to overcome the problems of Trinidad and Tobago.

Mr. President, Sen. Prof. Ramchand talked about the question of culture, dress code and such matters. He spoke about the law probably not being effective unless there were mechanisms put in place. As the Hon. Minister of Finance mentioned, it is very difficult to legislate for everything. I think it would be very difficult to legislate for class or dress code because how would you define class? As a matter of fact, it is very difficult to legislate even for culture because how would you define culture? It is in this context, countries having to deal with legislation involving discrimination in some form or the other, have to strike a balance or find a way in which they would be able to have certainty in these matters. We have used these yardsticks. We have put race, religion, sex and colour and allowed it to be open, so that the people through their representatives in Parliament can decide to extend that, from time to time.

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I agree with him and the other Senators who said that one would have to be very careful to ensure that the people who are going to be responsible in some way or the other, directly or indirectly for enforcing the law, should have proper training and proper machinery put in place to ensure that the law is not abused. That point is well taken. As a matter of fact, the Minister of National Security spoke to me during the debate about the customs and the police playing a very important part in these measures.

The kind of concept that we have been thinking about and in the process of having, are those which involve officers having handbooks or guidelines as to how to operate a particular law in addition to training. Take for example the drug legislation, we have been able to produce a handbook which officers can use to know how to deal with these matters. In respect of Justices of the Peace, we have been able to produce a handbook, which in a short while would be available to them.

In countries which had to grapple with the problems of misuse of power and situations where the authorities are not accountable, governments have been able to use training, handbooks and guidelines. We also have to bear in mind that the law provides for regulations to be made. We are hoping that the legislation would be so drafted, that there would be some uniformity in the application of the law and standards set in enforcing the law.

I wish to give this honourable Senate the assurance that the Government would want to ensure that this law is really adhered to, not misused or abused and that the spirit of the law is really what is implemented.

Mr. President, I know that Sen. Daly mentioned the "ladies nights". I know that one may take the Bill and wonder if in several instances, would such an act be caught by the definition of discrimination. I ask Senators to understand that it is not going to be a lay person alone administering this Act. The Committee will comprise a trained magistrate, a judicial officer and two other persons who normally sit and represent the authorities. It would be a court of law and in looking at legislation, the court in dealing with the matter would obviously have to take into consideration not only the letter of the law but the spirit and the intention of the law.

4.00 p.m.

One knows, Mr. President, that no legislation can be perfect and one would see how it works. If we have a problem, I am sure we can come back to the Parliament

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and ask hon. Members to look at it. The point is taken and I think that in relation to the handbooks and training of the officers, we would be able to minimize whatever abuse could occur under such law.

Sen. Daly raised an important point and it is correct that the media played an important role in bringing these matters to the forefront. As a matter of fact, when one looks at the history of these matters one would see—even as far back as the Country Club issue—that the media has been playing an important role. Government was asked, not only by Parliamentarians but also by the media and members of the public, to do something about this matter because an injustice to one person in respect of discrimination is an injustice to all. So when there are acts of discrimination which are being conducted and condoned, then it seems as though the whole society is being done an injustice.

Mr. President, I did not mention journalists by name but Mr. Raoul Pantin of the *Daily Express*, over the years, has written about these matters. He has begged Attorneys General and Governments to deal with the matter. Ms. Susan Lopez of the *Trinidad Guardian* and *The Mirror* has articulated and fought for these matters to be redressed. To be specific, in the *Sunday Express* of September 22, 1996, Mr. Pantin described the meeting just over five years ago with the then Attorney General, Anthony Smart. He said that he was at that time accompanied by *Express* reporter, Susan Lopez, subsequent to their completing investigation into accounts of blatant racism being practised at several well-known night clubs. Mr. Smart's response, although sympathetic, was to indicate that with no specific law to curtail such reprehensible conduct, there was little else he could do other than raise the issue in the public forum, which he did.

Coming nearer home, there was the recent TV 6 series done in October of last year in which a number of incidents were witnessed firsthand by Miss Natalie Williams as well as other undercover reporters and video recorders were used to capture incidents of discrimination. The three-part series on TV 6 showed clear evidence of racial discrimination in and around the Port of Spain night clubs. There was the practice by clubs of dividing the week into separate party nights for the various ethnic groups and this was exposed by the media.

Therefore, Mr. President, it is correct and one should not deny the media that praise. As a matter of fact, we recognize that is the role and function of the media.

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The Government of Trinidad and Tobago congratulates and commends the media for its performance in bringing to light these matters and welcomes criticisms and exposures. The Government also recognizes that it has a right to express its views and to criticize. So the Government of Trinidad and Tobago would like to say that the media did highlight these matters and congratulate them for so highlighting.
[Desk thumping]

Mr. President, points have been raised by Sen. Dr. Eastlyn Mc Kenzie and I must confess that I have never seen Sen. Dr. Mc Kenzie in such form. She was able to describe these matters in such a vivid way, I wonder whether she had the art of advocacy before a court or whether she was contemplating going into politics because it was articulated so well. One saw the cases the Senator put forward where members go to a club. They may be lawyers and the club may say, "No lawyers". You may have a situation where one could not get in but a Minister of Finance can or the club may say "people with jackets" where only the people with jackets would be able to get in.

Mr. President, the point I dealt with when I made my contribution with respect to members' clubs, one has to recognize that these clubs are entitled to have their members and visitors. There are procedures for visitors to be entered in a book upon entry and the members' club is not supposed to be making any profit. It is supposed to be a club where members can go with their visitors to engage in activities. In Trinidad and Tobago over the years, one has the East Indian club, the African club, the Chinese club, the Portuguese club as well as others.

When Justice Clement Phillips did the Country Club enquiry he recognized that it is important for us to understand that although race and discrimination allegations can be very emotive, we have to recognize that we live in a society in which we are committed to certain constitutional and fundamental values. In the Constitution of Trinidad and Tobago, an enshrined right is the right to freedom of association. The right to freedom of association means that one is entitled to associate with whom one wants; one has that God-given right. One is also entitled to the right to disassociate oneself from whom one wants.

It is in that context, for example, the courts of Trinidad and Tobago had to deal with a famous case, the Cane Farmers Cess Act, in which the legislation said that a cess would be deducted from every cane farmer who supplied cane to Caroni Limited. That money was to be paid to the Trinidad Island Wide Cane Farmers Association. This compelled cane farmers to belong to that association,

whether they wanted to or not. The court ruled that one could not compel people to belong to an association. The freedom of association also involved the right not to associate.

In passing legislation we have to recognize these matters. In one breath one wants to promote equality and ensure that there is fairness and no discrimination but, on the other side of the coin, one has to ensure that constitutional values remain, otherwise one will be throwing everything out the window. It is in this context that I have said in this House that Justice Clement Phillips has been one of the most distinguished judges. When one reads his report in that matter, one sees that it is just as applicable at the time he did it as it is today, and I am sure it will be applicable in the 22nd Century because one must have those values.

Mr. President, I will venture to say that if any legislation tries to take away that principle, any well-directed court would hold that it is not reasonable or justifiable in a society which has direct respect for our fundamental values. Mr. President, I hope that my contribution has allayed the fears of the Senator and given some answers to her questions.

4.10 p.m.

Mr. President, I will leave the question of noise pollution which was raised by Sen. Beckles for last. I hope that I have not left out dealing with anything else in her contribution.

We recognize that we have to consider other grounds of discrimination and disability is one of the matters that is very high on our priority. Mr. President, one would recognize that in order to introduce those measures, entertainment houses and clubs would have to so construct their businesses and make changes in order to accommodate disabled persons.

On the question of other acts of discrimination—health or otherwise—I want to assure Members of the Opposition and the Independent Senators that the Government of Trinidad and Tobago is committed to having measures put in place to try to eradicate all forms of inequality, as long as it could be dealt with either in a court of law or through an institution. The point has been well made by the Opposition Members and we give the assurance that we will look into the matter.

I have dealt with the matter of supervision. There is a problem in the Magistrates' Courts. These problems have not occurred overnight and we are in the process of addressing them. There is a major overhaul programme underway

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and the Government of Trinidad and Tobago has employed a project engineer attached to the Ministry of the Attorney General, to assist in having some of these measures implemented as quickly as possible.

There is a problem with the Port of Spain Magistrate's Court and only today I intervened in relation to the air-conditioning system—NIPDEC is in charge of that— and got my Permanent Secretary to address the matter. As a matter of fact, I understand that by 1.00 p.m. the problem would have been rectified. In any event, it seems that a new air-conditioning system is needed and I am sure NIPDEC is considering that and will do what is necessary.

The Port of Spain Magistrate's Court is going to be removed from there. The old court on St. Vincent Street is now occupied by the Trinidad and Tobago Police Service and within the next two or three months the police would vacate that building and occupy their new quarters at the Port of Spain Magistrate's Court. All the Magistrates' Courts in Trinidad and Tobago are going to be refurbished and air-conditioned. We are hoping to deal with them in that way because we know that most of the legislation dealing with these matters has to be administered through the courts.

The Senator is pushing an open door with respect to the fact that women must not be discriminated against. It is recognized that women have been discriminated against for several centuries, however, there is no doubt that in the 21st Century women would take the centre stage. I assure the Senator that the new programme under the Unemployment Relief Programme is not to compel women to do a particular kind of job. As a matter of fact, it is a volunteer programme in which women have the choice to either accept or reject, but it is a recognition that one has to empower people in order to get employment in particular skills and particular fields. Therefore, I ask Sen. Beckles to consider the programme in URP, as a programme for the empowerment of women in order to make them more employable and promote their equality instead of discriminating against them.

Mr. President, with respect to the noise pollution, when the Bills were put out for public comments there was a group of 114 persons calling themselves "Concerned Citizens" who raised a number of concerns in their letter which dealt with the question of noise levels, volume of music, parking and litter.

We are going to address that problem in the Environmental Act which has several sections dealing with this matter and we were hoping to have the Act implemented in all its form. I only became aware of this proposed amendment

today; I did not see it before and must confess that there could be no harm including it in these measures. I have given instructions and understand that a draft has been circulated and at committee stage I hope we will agree to the following section:

“14C (1) A Licensing Committee may on a complaint made in writing by an aggrieved person, make an order directing the club to be struck off the Register if it is satisfied by proof on oath before it that the conduct of any trade or business on premises to which this Act applies has caused annoyance to persons in the vicinity of that trade or business by virtue of excessive noise emanating from electronic or other devices.”

We can discuss that but I give the assurance and commitment that Government recognizes this is a major problem affecting the lives of people; it is affecting their enjoyment of their property and it is, in effect, adversely affecting the functioning of the human resource in Trinidad and Tobago. Therefore, it is a matter in which the Government should find ways and if this is one of the ways that it could be dealt with in addition to what other measures we have, the Government will be happy to deal with it in that way.

Mr. President, I thank hon. Senators for expressing their support and say, as far as we are concerned, this is how this Parliament should function. This is a people's Parliament where the Government listens and responds to the suggestions made. We may not agree at all times but, as far as possible, we should try to accommodate the views of Members of the Opposition and the Independent Senators.

I beg to move.

Mr. President: Hon. Members procedurally hereafter, the Bills must be treated separately and individually, so the question I will now put forward is with respect to the Registration of Clubs (Amdt.) Bill, then we go into committee, deal with that Bill and return to the other two Bills in similar fashion.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

4.20 p.m.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Sen. Daly: Mr. Chairman, I propose an amendment to clause 2 as follows:

“A. Renumber section 14C as 14D and insert a new 14C as follows:

“Striking club
off Register on
grounds of
causing a
public
annoyance

14C(1) A licensing Committee may, on complaint made in writing by aggrieved person, make an order directing the club to be struck off the Register if it is satisfied by proof on oath before it that the conduct of any trade or business on premises to which this Act applies has caused annoyance to persons in the vicinity of that trade or business by virtue of excessive noise emanating from electronic or other devices.

(2) Where a complaint has been made against a licensee under subsection (1), the Chairman of the Committee shall summon the Licensee to appear before the Committee on the date for the hearing of the complaint to respond to the allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law.”

B. In section 14D as renumbered-

- (i) in subsection (1), insert after the word ‘14A’, the words ‘or section 14C’;
- (ii) in subsection (3), delete the words ‘and 14B(1)’ and substitute the words ‘14B(1) and 14C’.”

Dr. Mc Kenzie: I would like to ask the Attorney General whether there would be any sort of definition or measure for “excessive”, whether we would have a time or a decibel, or something. Maybe it could come up in the Regulations, but I think we could have many varying interpretations of “excessive”.

Mr. Maharaj: Mr. Chairman, this would be examined by a committee which would determine what is “excessive”, and with some help also with the regulations as to these matters.

Prof. Ramchand: Mr. Chairman, is there a time factor?

Mr. Maharaj: I understand that there is always a time factor, in that when the committee grants a licence, there can be time conditions. There is power to do that so that excessive noise can be determined. As a matter of fact, if one has to consider what is a nuisance, the court looks at all the circumstances and determines this.

Sen. Beckles: Mr. Chairman, what I would suggest in terms of the Attorney General’s indication on the regulations, is that in terms of the Motor Vehicles and Licences Act, that amendment that deals with the maxi taxi will give a little idea as to how the court would interpret that. I cannot remember exactly what it says, but I think you could look at that and it would give some assistance.

Question put and agreed to.

Clause 2, as amended; ordered to stand part of the Bill.

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

Senate resumed.

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

THEATRES AND DANCE HALLS (AMDT.) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That a Bill to amend the Theatres and Dance Halls Act, Chap. 21:03 be now read a second time.

Question proposed.

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Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Sen. Daly: Mr. Chairman, I propose an amendment to clause 2, as circulated, which reads as follows:

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|---|---|
| <p>“A.</p> <p>Cancellation of licences on grounds of causing a public annoyance</p> | <p>Renumber section 4C and 4D and insert a new 4C as follows:</p> <p>4C (1) A Licensing Authority may, on complaint made in writing by an aggrieved person suspend or cancel a licence, if it is satisfied by proof on oath before it that the conduct of any trade or by business on premises to which this Act applies has caused annoyance to persons in the vicinity of that trade or business by virtue of excessive noise emanating from electronic or other devices.</p> <p>(2) Where a complaint has been made against a licensee under subsection (1), the Licensing Authority shall summon the licensee to appear before it on the date set for the hearing of the complaint to respond to the allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law</p> |
| <p>B.</p> | <p>In section 4D as renumbered-</p> <p>(i) in subsection (1), insert after the word ‘4A’, the words ‘or section 4C’;</p> <p>(ii) in subsection (3), delete the words ‘and 4B(1)’ and substitute the words ‘4B(1) and 4C’.”</p> |

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Sir, may I acknowledge the help we have had from the Attorney General's department to do this in a very short time. It is really entirely a generous concession on his part to leave the amendment in my name. The goodwill seems to be spreading between the parliamentarians and the draftspeople.

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

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

Senate resumed.

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

LIQUOR LICENCES (AMDT.) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move:

That a Bill to amend the Liquor Licences Act, Chap. 84.10: be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

4.30 p.m.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Sen. Daly: Mr. Chairman, I beg to move that clause 2(a)(e) be amended by adding "and 21C" immediately after the word "21A".

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Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3.

Question proposed, That clause 3 stand part of the Bill.

Sen. Daly: Mr. Chairman, I beg to move that clause 3 be amended as follows:

(a) Renumber section 21C as 21D and insert a new 21C as follows:

“Suspension
or revocation
of licence on
ground of
causing a
public
annoyance

21C (1) A Licensing Committee may, on complaint made in writing by an aggrieved person suspend or revoke a licence, if it is satisfied by proof on oath before it that the conduct of any trade or business on licensed premises to which this Act applies has caused annoyance to persons in the vicinity of that trade or business by virtue of excessive noise emanating from electronic or other devices.

(2) Where a complaint has been made against a licensee under subsection (1), the Chairman of the Committee shall summon the licensee to appear before the Committee on the date set for the hearing of the complaint to respond to the allegations made against him and the licensee may either represent himself or be represented by an attorney-at-law.”

B. In section 21D as renumbered:

- (i) in subsection (1), insert after the word “21A”, the words “or section 21C”;
- (ii) in subsection (3), delete the words “and 21(1)” and substitute the words, “21B(1) and 21C”.

Question put and agreed to.

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

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

Senate resumed.

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

Adjournment

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ADJOURNMENT

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, July 1, 1997 at 1.30 p.m.

I would like to indicate to the Senate that we propose to deal with the Cipriani Labour College (Amdt.) Bill and the Industrial Relations (Amdt.) Bill. If time permits we would deal with the Pounds (Amdt.) Bill.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.34 p.m.