

*Leave of Absence**Tuesday, May 14, 2013***SENATE***Tuesday, May 14, 2013*

The Senate met at 1.30 p.m.

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

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. James Lambert, who is ill, and also to Sen. Penelope Beckles, who is out of the country.

**SENATORS' APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona SC:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS  
CARMONA, S.C., President and Commander-  
in-Chief of the Armed Forces of the Republic  
of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona SC  
President.

TO: MS. PATRICIA HERRY

WHEREAS Senator the Honourable James Lambert is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, PATRICIA HERRY, to be temporarily a member of the Senate, with effect from 14<sup>th</sup> May, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable James Lambert.

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 13<sup>th</sup> day of May, 2013.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS  
CARMONA, S.C., President and Commander-  
in-Chief of the Armed Forces of the Republic  
of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona SC  
President.

TO: MRS. SHERRIE HAMIDAN LORNA ALI

WHEREAS Senator PENNELOPE BECKLES-ROBINSON is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, SHERRIE HAMIDAN LORNA ALI, to be temporarily a member of the Senate, with effect from 14<sup>th</sup> May, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Pernelope Beckles-Robinson.

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 14<sup>th</sup> day of May, 2013.”

**OATH OF ALLEGIANCE**

*Senators Patricia Herry and Sherrie Hamidan Lorna Ali took and subscribed the Oath of Allegiance as required by law.*

**CUSTOMS (AMDT.) BILL, 2013**

Bill to amend the Customs Act, Chap. 78:01 to enhance border control by providing for advance passenger and cargo information to be submitted electronically to the Comptroller of Customs and Excise and for related matters, brought from the House of Representatives [*The Minister of Finance and the Economy*]; read the first time.

*Motion made:* That the next stage be taken at a sitting of the Senate to be held on Tuesday, May 21, 2013. [*Hon. L. Howai*]

*Question put and agreed to.*

**PAPERS LAID**

1. Annual Audited Financial Statements of the Regulated Industries Commission for the year ended December 31, 2009. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Trinidad and Tobago Postal Corporation for the year ended September 30, 2007. [*Sen. The Hon. L. Howai*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Public Accounts of the Republic of Trinidad and Tobago for the financial year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
4. Public Accounts of the Republic of Trinidad and Tobago for the financial year ended September 30, 2012—Vols. I and II. [*Sen. The Hon. L. Howai*]
5. Audited Financial Statements of the Palo Seco Agricultural Enterprises Limited for the financial year ended September 30, 2012. [*Sen. The Hon. L. Howai*]

**SELECT COMMITTEE REPORTS****(Presentation)**

**Ministries (Statutory Authorities and State Enterprises) (Group 1)  
(Ministry of Health)**

**Sen. Corinne Baptiste-Mc Knight:** Thank you, Mr. President. Mr. President, I have the honour to present the following report as listed on the Order Paper in my name: the Fifth Report of the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 1) and on the Statutory Authorities and State Enterprises falling under their purview on the administration and operations of the Ministry of Health with specific focus on primary health care.

**Municipal Corporations and Service Commissions  
(Police Commission)**

**The Minister of Gender, Youth and Child Development (Sen. The Hon. Marlene Coudray):** Thank you, Mr. President. Mr. President, I have the honour to present the following report as listed on the Order Paper in my name: the Eighth Report of the Joint Select Committee established to inquire into and report to Parliament on Municipal Corporations and Service Commissions on the review of the Police Service Commission.

**ANSWERS TO QUESTIONS**

**Mr. President:** Leader of Government Business.

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, thank you. The Government is in a position to answer questions: 41, 42, 44, 47, 49, 50, 54, 55 and, for circulation or written answer, question 46. [*Desk thumping*]

**Mr. President:** Sen. Hinds.

**Sen. Hinds:** I would like with your leave to communicate to you that questions nos.: 41, 42 and 44 which the Government has just indicated it is able today to answer. Mrs. Beckles who posed those questions, Sen. Beckles, is out of the jurisdiction with the leave of this Senate, and she has asked that your leave be sought to defer the responses to these for the next occasion.

**Mr. President:** It would be deferred.

**Sen. Hinds:** Thank you very warmly.

#### WRITTEN ANSWER TO QUESTION

#### Court Matters (Details of)

**46. Sen. Fitzgerald Hinds** asked the hon. Attorney General: With respect to court matters arising during the period 1st January, 2008 to 1st December, 2012 in which the State is a party, could the Attorney General indicate:

- (a) the number of matters referred to the Privy Council for each such year;
- (b) the total legal fees paid to local and foreign-based lawyers for each year during the said period;
- (c) the names of the respective attorneys/law firms who represented the State of Trinidad and Tobago in such matters; and
- (d) the number of such matters resolved and the outcomes in each case? [*Sen. F. Hinds*]

*Vide end of sitting for written answer.*

#### ORAL ANSWERS TO QUESTIONS

*The following questions stood on the Order Paper:*

#### Commission of Enquiry into the 1990 Coup (Details of)

**41.** Could the hon. Attorney General indicate, as at March 2013, the following:

- (i) the total cost of the Commission of Enquiry into the 1990 attempted coup inclusive of salaries for professional services rendered, administrative costs and other incidentals;

- (ii) the names of professionals providing services to the Commission and to the State and to all state enterprises appearing at the Commission and/or advising in relation thereto; and
- (iii) the total fees paid to the professionals identified under paragraph (ii) above? [*Sen. P. Beckles*]

**CLICO/HCU Commission of Enquiry  
(Details of)**

- 42.** Could the hon. Attorney General indicate, as at March 2013, the following:
- (i) the total cost of the CLICO/HCU Commission of Enquiry inclusive of salaries, fees for professional services rendered, administrative costs and other incidentals;
  - (ii) the names of professionals providing services to the Commission and to State and to all state enterprises appearing at the Commission and/or advising in relation thereto; and
  - (iii) the total fees paid to the professionals identified under paragraph (ii) above? [*Sen. P. Beckles*]

**Food Import Bill  
(Details of)**

- 44.** Could the hon. Minister of Trade, Industry and Investment indicate to the Senate:
- (i) what was the country's total food import bill per year for the years 2008—2012 inclusive; and
  - (ii) the first ten items of highest expenditure on the food import bill for the above mentioned years together with the monetary values? [*Sen. P. Beckles*]

**Science and Technology Policy for Trinidad and Tobago  
(Details of)**

- 45.** With regard to the science and technology policy for Trinidad and Tobago, could the Minister of Tertiary Education and Skills Training indicate to the Senate:
- (i) what is the status of development/execution of this policy;
  - (ii) how will the policy be funded;
  - (iii) does the policy include a national research and development (R&D) system;

- (iv) how much has already been spent on R&D as a percentage of GDP during the 2010—11 and 2011—12 periods;
- (v) what major areas were the recipients of the expenditure under (iv) and how much was expended on each area; and
- (vi) when can the country expect to reach the international recommended minimum expenditure on R&D of 1 per cent of GDP? [*Sen. Prof. H. Ramkissoon*]

*Questions, by leave, deferred.*

**The “A-Team”  
(Details of)**

**47. Sen. Fitzgerald Hinds** asked the hon. Attorney General: With respect to the “A-Team” assembled to investigate and collect evidence on corruption as announced by the Attorney General on August 13, 2010, could the hon. Attorney General indicate:

- (i) the total amount of fees paid to date, to each of the local and foreign-based lawyers of the “A-Team”;
- (ii) the total sum paid to-date to the non-lawyer(s) on the “A-Team”;
- (iii) whether the work of the “A-Team” is complete, and if so, whether any evidence to support any criminal charges against any person has been gathered; and
- (iv) if the work of the “A-Team” is not yet complete, would the hon. Attorney General indicate the status and a projected completion date?

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Thank you very much, Mr. President. Mr. President, with respect to the answer to question no. (i), a similar question was answered on this matter on March 16, 2012, when the total cost of fees paid to both the local and foreign members of the team retained to conduct the probe into corruption was answered. The following answer is therefore really an update on the figures that were provided in the other place in March 2012 bringing it forward to April 2013 as provided by the accounts department in the Ministry.

Total fees paid to each of the local-based lawyers of the team: Mr. Mark Seepersad, \$356,666.00; Mr. Gerald Ramdeen, \$1,845,090.00. To each foreign-based lawyer: Mr. Alan Newman, QC \$9,512,609.09; AFA LAW, \$6,097,348.09. Total fees paid to non-lawyers, and this would be primarily with respect to the forensic firm hired to conduct the forensic audits that were required as part of these probes and that would be AlixPartners, a firm of international repute, the sum of \$20,903,070.98.

Answer to No. (iii): Mr. President, the work of the “A-Team” is completed. The mandate of the “A-team” was to probe allegations of misconduct and wrongdoing to uncover the commission of misconduct or civil wrong.

The probe was never intended to uncover criminal wrongdoings because, as it is well known to my learned friends and the national community, the Government has no power or legal authority to initiate any police investigation. We do not supervise police investigations. We do not get involved in them, and criminal charges are a matter for the police to investigate, produce relevant evidence, pass the file to the Office of the Director of Public Prosecutions and it would be a matter for the DPP, on the basis of the evidence unearthed by the police, to decide whether or not a charge ought to be preferred and that will be based on whether the evidence produced to the DPP substantiates or justifies the laying of a criminal charge. The Government has nothing to do with that.

**1.45 p.m.**

That said, Mr. President, the work done by the “A-Team” has in fact led, in fulfillment of its mandate, to the filing of several landmark cases for civil fraud, misrepresentation, misconduct, negligence and breach of fiduciary duties and over \$2 billion in compensation is being sought.

These cases are as follows. The first one, case filed against former executive chairman of UDeCott, Mr. Calder Hart; the deputy chairman, Mr. Krishna Bahadoorsingh; the former chief operating officer, Ms. Neelanda Rampaul and Mr. O’Brien. UDeCott is claiming approximately \$500 million from its chief executive officer, Mr. Calder Hart and his deputy, Mr. Bahadoorsingh, the former chief financial officer, Ricardo O’Brien, and former CEO, Neelanda Rampaul.

This claim arises out of the now infamous and notorious construction of the Brian Lara Stadium in Tarouba which some subsequently tried to justify on the basis that it could be used as a tsunami shelter. That matter is, of course, pending before the courts and has reached an advanced stage of case management.

The claim against former executive president and chairman of Petrotrin, Mr. Malcolm Jones, a claim based on negligence and breach of fiduciary duty seeking to recover roughly \$1.2 billion for the failed gas to liquids plant. That plant, as you know, after over a billion dollars was pumped into it, is now being sold as scrap iron and even to find a buyer for the scrap iron has proven to be a challenge, and over a billion dollars was wasted in it. Not only do we have this claim pending, but it also spawned two international commercial arbitrations that gave the State a risk exposure to the tune of billions of dollars.

In the first arbitration which we have been managing, we were successful, the second one is yet to come up and that would be in London. Might I say for the record, regardless of how the arbitrations turn out, GTL is a shell company with no assets and the litigation, it would appear, is being financed on behalf of GTL via a third party. So we have nothing to gain, but we must defend the claims because we have everything to lose, if they succeed, because it can lead to a liability in the tune of over \$1 billion for Trinidad and Tobago, and that is the GTL fiasco.

The former board of e Teck led by former chairman, Professor Ken Julien and other members of the board has been sued for the sum of \$30 million. In that matter the other defendants would include Dr. Rene Monteil, Eugene Tiah, Mr. Brian Copeland and others and the claim is for negligence and breach of fiduciary duties based on a failed investment in Bamboo Networks Limited, in circumstances where US \$6 million was invested in a company without any or any proper due diligence being done on the company to see whether it was financially stable and worthy of that sum being invested in it. That money went into a black hole, has never been accounted for, and it has just vanished into thin air because the company just simply diverted US \$6 million—TT \$30 million—and it vanished into thin air.

The fourth case is against the former board of the University of Trinidad and Tobago, a claim filed against former president, Professor Kenneth Julien and other members of the board which incurred the sum of \$12 million, which is the sum claimed for negligence and breach of fiduciary duty. This arises out of moneys that were spent to lease a guest house in Aripo. This is the infamous guest house at which former Reverend Juliana Pena, spiritual advisor to the then administration, was found to be stashed away and staying at, although she was not a member of staff at UTT.

But, that matter has reached the courts, because the lease that they were paying—the lease rent they were paying, no one bothered to verify that the lessor was in fact the owner. So they ended up leasing the property from someone who apparently does not own it. More than that, to compound matters, not only did they lease the property from someone who does not own it in law, but they then proceeded to spend, in the Heights of Aripo, to outfit it with the most luxurious accommodation possible, they spent over \$5 to \$7 million to have a large-sized swimming pool, fantastic drawing room and matters of the kind. It would have perhaps rivalled the luxury we see today at Hyatt and seven-star hotels all over the world—Aripo guest house.

The sixth claim has to do with the (PHI) pan invention and Prof. Brian Copeland. The State has taken suit against Prof. Copeland to secure the intellectual property rights for the newly invented (PHI) pan. As you know, Mr. President, the steel pan is at the very heart and soul of the culture of Trinidad and Tobago. It is indeed our national



instrument and the research conducted by the “A-Team” and the probe revealed that the State funded to the tune of some \$35 million, through various state agencies including the Office of the Prime Minister, the research that went into the invention of the (PHI) pan.

Prof. Copeland is opposing the ownership claims because he is claiming the intellectual property rights in the (PHI) pan for himself. Our case is that we funded the research that led to it, and therefore we own the intellectual property rights and that the (PHI) pan belongs to the people and the State of the Republic of Trinidad and Tobago. [*Desk thumping*]

Mr. President, in total, therefore, these claims, filed as a result of the work done by the “A-Team”, would amount to approximately \$2 billion. Of course, it would include interest and costs.

Mr. President, the final question: as I indicated before, the work is complete and they have led to the filing of several landmark civil lawsuits—[*Interruption*]

**Sen. Hinds:** What?

**Sen. The Hon. A. Ramlogan SC:**—which are before the court, so no further answer is required in respect to (iv). I thank you very much, Mr. President. [*Desk thumping*]

**Sen. Hinds:** Thank you, Mr. President. Will the Attorney General agree—

**Mr. President:** Sorry, Sen. Hinds, you cannot call upon the Attorney General to agree. You can ask him a question.

**Sen. Hinds:** It is a question I was asking. I was asking whether he would agree with a suggestion I am about to make. [*Laughter*] Is the Attorney General saying that after \$20 million worth of forensic investigation by AlixPartners who he briefed, no element of evidence has been found to prosecute or to send to the Director of Public Prosecutions for criminal prosecution in any of these matters? And would the Attorney General also agree that the use of the word, corruption, corruption, corruption which you spoke about when you spoke about that “A-Team”—[*Interruption*]

**Sen. Singh:** “Dat is ah question?”

**Sen. Hinds:**—lends the impression—[*Interruption*]

**Sen. Singh:** Is that a question?

**Sen. Hinds:**—that you were pursuing criminal charges?

**Sen. The Hon. A. Ramlogan SC:** I will be happy to answer. Mr. President, thank you very much for the opportunity to respond. Mr. President, as I pointed out, this is a Government that respects the rule of law and understands the constitutional machinery and arrangements that govern the three arms of the State.

As I indicated before, the criminal jurisdiction is vested in the Office of the DPP and the police service under the Police Service Act, that is the remit of the police service and the DPP. What is vested in the Office of the Attorney General by the Constitution, as my learned friend well knows, is the civil jurisdiction of the State. These forensic audits and these probes have in fact fulfilled their purpose and mandate by leading to an avalanche of litigation, unprecedented and historic litigation of a kind never seen, whereby civil lawsuits have been brought.

With respect to the claims of—my learned friend’s claims about corruption and the fact that something should be done, I want to say I agree with him. And the police service, as we speak, they still have the Calder Hart matter under investigation. They still have, through the Anti-Corruption Bureau, the Landate matter under investigation, and they still have—indeed several of these matters are under investigation by the police service of Trinidad and Tobago. But I will not be able to report on the status of those investigations. I cannot tell you why it is taking so long. I cannot tell you what they have been doing, because that is a matter for the police service and the honourable DPP himself. That is not a matter for the Government and we do not get involved in that. If we do, I will not be lured into the trap set by learned friend, so we can answer to those questions only to have claims of political interference involved in the police investigations. [*Desk thumping*]

**Sen. Hinds:** Concerned about that after you discussed them here today? Question—

**Mr. President:** Sen. Hinds, I will have a question. Thank you.

**Sen. Hinds:** Is the Attorney General, since there have been no criminal efforts in these matters, no evidence found so far, according to you, is the Attorney—

**Mr. President:** Sen. Hinds, have a seat. You will recall that on my ruling on the last occasion, you cannot have any preamble to the question. You can ask a question. So please proceed to do that.

**Sen. Hinds:** Thank you very much, Mr. President. I will shorten my run-up.

**Sen. Singh:** He has to warm up. That is his problem.

**Sen. Hinds:** Is the Attorney General telling this country that he realistically expects to recover from Malcolm Jones \$1.2 billion in circumstances where he acted as chairman of the company under discussion?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, I do not know what the financial assets and means of Mr. Malcolm Jones would be like. [*Desk thumping*] Perhaps my learned friend—this is a case of anticipatory breach and my learned friend is anticipating what would be recovered.

**Sen. Hinds:** Waste of time.

**Sen. The Hon. A. Ramlogan SC:** But what I can say—

**Sen. Hinds:** Waste!

**Sen. The Hon. A. Ramlogan SC:**—is the claim, based on the loss sustained and suffered by the people of this country, it is over \$1.2 billion. Today we are trying to sell the GTL plant as scrap iron and we are unable to do that.

With respect to the preamble about whether I can say realistically there were criminal efforts, I want to say that I am clear in my mind that there were criminal efforts made by the former administration to pilfer a lot of money away and those matters are being investigated by the police. But those matters, the chickens, will come home to roost when the police have completed their investigations and my learned friend knows very well, they can run but they can never hide. [*Desk thumping*]

**Sen. Hinds:** One more supplemental. “Nobody eh runnin nowhere.” Let me ask the Attorney General, after \$45 million worth of expenditure in legal fees and briefs to Seepersad, Mr. Ramdeen, \$1 million; Alan Newman, \$9 million and AFA LAW, \$6 million—

**Sen. The Hon. A. Ramlogan SC:** “Dat is not \$45. Yuh ha to learn to add.”

**Sen. Hinds:**—and AlixPartners \$20 million, would not the Attorney General consider that he too has squandered the money of the people of Trinidad and Tobago and it is going nowhere with frivolous legislation?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, the first thing is I would like to correct my learned friend in terms of the mathematics. The arithmetic is all wrong. AlixPartners, as I was at pains to point out in answering the question, is an internationally recognized firm of forensic auditors. They are not lawyers. So for my friend to include it and misrepresent it as legal fees, five minutes after I have answered the question, is perhaps unfortunate and regrettable, if not misleading.

*Oral Answers to Questions*  
[SEN. THE HON. A. RAMLOGAN SC]

*Tuesday, May 14, 2013*

With respect to the other point about squandering of money, Mr. President, there has been a history in this country of money spent in an effort to uncover and pursue wrongdoing. As my learned friend knows, he was part of an administration that spent over \$100 million to hound a chief justice out of office, to pursue the Piarco corruption cases—

**Sen. Hinds:** Not true. Not true.

**Sen. The Hon. A. Ramlogan SC:**—and had a failed enquiry appointed, under the Constitution, chaired by Lord Mustill which revealed no wrongdoing and they tried to hound a chief justice out of office. [*Desk thumping*] They had the Uff Commission and they spent over \$60 million in the Uff Commission of enquiry because of Calder Hart’s transgressions and you did nothing about it. So do not come here to play Pontius Pilate. [*Desk thumping*] [*Crosstalk*]

**Sen. Al-Rawi:** Further supplemental, Mr. President, hoping to return some calm to the honourable Senate.

**Sen. Singh:** You? [*Laughter*]

**Sen. Al-Rawi:** Is the hon. Attorney General able to inform us whether the “A-Team” described as comprising but a few people today have been assisted by any other persons—attorneys-at-law?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, I am happy to answer any questions pertaining to this matter. I would not obviously have that information before me now. If my learned friend wishes to file a fresh question, I will come and answer those questions. [*Desk thumping*]

**Sen. Al-Rawi:** Supplemental, Mr. President. Is the hon. Attorney General then able to assist us as to whether the “A-Team’s” mandate, having been successfully concluded as he has suggested, is now in a position set to recover wasted moneys and finances expended on behalf of the UNC?

**Sen. The Hon. A. Ramlogan SC:** Well, Mr. President, I do not know if my learned friend is trying create some abstract thing that has not arisen out of the question, but the UNC, as far as I am aware is a political party.

**2.00 p.m.**

If my learned friend by a Freudian slip meant to say PNM, I will be happy to provide the service of the “A-Team” to probe the wrongdoing in their political party, including the assault and battery which recently took place. Thank you. [*Desk thumping*]

**Sen. Al-Rawi:** Perhaps I may pose another question which my friend is ducking all afternoon. Is the hon. Attorney General able to tell us, arising out of his answer relative to the work of the “A-Team” in pursuing landmark cases in fraud, as to whether this “A-Team” is in a position or set to be used in any other capacity moving forward as a result of the administration of state enterprises under conduct in the period May 2010 to date? [Desk thumping]

**Sen. The Hon. A. Ramlogan SC:** Mr. President, my learned friend well knows that is an entirely separate question. I will be more than happy to answer it if he files it at the appropriate time. There are other questions that the Government has come prepared to answer, we have limited time and we would like to answer the other questions out of respect to the other Senators who posed those questions.

Permit us to say that this is the first time we are ready to answer questions and they are asking that we defer the answer to facilitate them. They are the ones who are delaying.

#### **Caribbean Airlines Hiring of Ascend Aviation**

**49. Sen. Terrence Deyalsingh** asked the hon. Minister of Finance and the Economy:

With regard to the hiring of Ascend Aviation, by Caribbean Airlines, to perform evaluation work as to the suitability of leased aircraft, could the Minister indicate:

- a. which of Ascend Aviation’s worldwide offices performed the evaluation;
- b. the date of procurement of such services;
- c. the date of submission of the report;
- d. the terms of reference of the exercise;
- e. the cost of the exercise; and
- f. the name of the person who signed off on the report?

**The Minister of Finance and the Economy (Sen. The Hon. Larry Howai):** Mr. President, the New York and London offices of Ascend Worldwide Limited performed the evaluation on the aircraft. On December 12, 2011, there was the agreement for the provision of aviation consultancy services to Caribbean Airlines Limited by Ascend Aviation and on January 03, 2012, the project plan was submitted.

Mr. President, Ascend Aviation submitted the report for the narrow-bodied aircraft on July 05, 2012 and on August 16, 2012, Ascend submitted the report for the wide-bodied aircraft.

Mr. President, the terms of reference were as follows:

- For the narrow-body aircraft evaluation, Ascend was to assess the Boeing 737 MAX and Airbus A320 NEO aircraft for potential future use on Caribbean Airlines' network, both intra-Caribbean and to the US east coast, where the Boeing 737-800 Next Generation aircraft are currently used.
- For the wide-body aircraft evaluation on the 767-300, 777-200ER and the A330-200/300 aircraft, Ascend was required to:
  1. Make recommendations on the aircraft that were believed to be best suited to Caribbean Airlines' near-term needs. This included the suitability of the aircraft to operate the transatlantic route.
  2. Provide some initial contacts for aircraft leasing/acquisition; and
  3. Provide the latest market lease rates for the aircraft types, in order to allow Caribbean Airlines to have a benchmark for negotiations with lessors based on predetermined criteria.

Mr. President, the total cost of the exercise was US \$75,000.

The persons who signed off the reports were Mr. George Dimitroff, Ms. Sara Saci and Mr. Michael Lapson, three senior analysts with Ascend Worldwide Limited.

**Sen. Deyalsingh:** Supplemental, Mr. President. Thank you. Would the Minister tell us whether these proposals which were submitted in July 2012 were submitted before or after the lease of the 737 aircraft used to fly to London?

**Sen. The Hon. L. Howai:** Mr. President, I do not have the answer to that. I will have to ask the hon. Senator to file a separate question, and I will deal with it subsequently.

**Sen. Hinds:** "Dai wah we pay \$10 million for?"

**Sen. The Hon. L. Howai:** "We didn' pay so much for the aircraft."

**Sen. Deyalsingh:** Further supplemental, Mr. President. Would the hon. Minister be willing to tell the Parliament that these reports as to the suitability of the aircraft can stand evidential scrutiny if and when the occasion arises?

**Sen. Ramlogan SC:** Evidential? "Wey yuh feel the man is, ah judge?"

**Sen. The Hon. L. Howai:** Yeah, Mr. President, the reports were submitted by international consultants of repute and I expect that they will be able to stand up to any scrutiny that may arise subsequently. [*Desk thumping*]

**Caribbean Airlines Limited  
(Details of Operations)**

**50. Sen. Dr. Lester Henry** asked the hon. Minister of Finance and the Economy:

With regard to the operations of Caribbean Airlines Limited, could the Minister state:

- (a) the total profit and/or loss of Caribbean Airlines Limited (CAL) over the calendar year January 2012 thru December 2012;
- (b) whether CAL has utilized the services of foreign pilots who did not possess the required work permits at any time over the past two years;
- (c) if the answer to (b) is in the affirmative, whether there were suitably qualified local pilots available to fill the positions held by such foreign pilots; and
- (d) if the answer to (b) and (c) are in the affirmative, could the Minister state the consequences of this practice?

**The Minister of Finance and the Economy (Sen. The Hon. Larry Howai):** Mr. President, Caribbean Airlines is still in the process of closing the accounts for 2012 and completing their reconciliations and as such, the audited figures are not yet available for 2012.

However, I will say that preliminary estimates based on the unaudited figures for the airline reveal that the company incurred losses—that Caribbean Airlines Limited incurred losses for 2012 of US \$69.147 million, could be rounded to US \$70 million.

**Sen. Al-Rawi:** Seventy?

**Sen. The Hon. L. Howai:** Seven zero, yeah. Mr. President, during the last two years, Caribbean Airlines has inducted five ATR aircraft, two B767 aircraft and 10 B737 aircraft. During this period, the airline also carried out training for 80 pilots previously employed by Air Jamaica, who moved first to CARIBAL Limited and then to Caribbean Airlines.

In order to facilitate this training, as well as the induction of these aircraft, foreign pilots were employed on short-term contracts, and the relevant work permit applications were submitted. Additionally, Trinidad and Tobago Civil Aviation

Authority mandated Caribbean Airlines to utilize Boeing and foreign B767-qualified pilots to conduct training for our B767 pilots, and also to fly alongside the local pilots until the requisite level of experience was attained.

It was expected that Boeing would have provided a rotation of training pilots for one-month periods but they were unable to do so. Caribbean Airlines had to enter into contracts with suitably qualified training pilots to source this training. It should be noted that there is no qualified national on the B767 who is able to provide this training.

Work permit applications were submitted for six Jamaican nationals who were part of the pilot body trained on the B737 in Jamaica, and who were now surplus to operational requirements there. These pilots operated out of Trinidad where there was a shortfall. Work permits were not received for these pilots although applications were submitted once this oversight was identified.

Mr. President, there were no suitably qualified and current pilots able to fill positions held by foreign pilots on any of the fleets. Caribbean Airlines advertised all positions and interviewed applicants. The vacancies were identified on CAL's website on the following dates: February 27, 2012, March 02, 2012; April 05, 2012; July 06, 2012; July 27, 2012 and August 24, 2012.

Mr. President, since part (c) is in the negative, part (d) is not applicable. [*Desk thumping*]

**Sen. Dr. Henry:** Hon. Minister, could you tell us that the figure quoted was in US dollars? You said 69 million. Also, does that figure include the fuel subsidy? And I will follow up.

**Sen. The Hon. L. Howai:** Yes, the figure is US \$69 million and it does not include the fuel subsidy.

**Sen. Dr. Henry:** Hon. Minister, if my information is correct, the fuel subsidy amounts to about US \$40 million for CAL and probably another \$25 million for Air Jamaica.

**Sen. Singh:** "Yuh behaving like Ralph Gonzalves."

**Sen. Dr. Henry:** So if you add these, it doubles the loss of the airline and it would convey a totally different picture than what you are trying to portray.

**Sen. The Hon. L. Howai:** Is that a question?

**Sen. Ramlogan SC:** "Dais ah parliamentary statement."

**Sen. Dr. Henry:** Yes. Could you confirm the fuel subsidy of—



**Sen. The Hon. L. Howai:** Yeah. The fuel subsidy is US \$40 million in total for CAL.

**Sen. Dr. Henry:** Hon. Minister, are you aware that given the difficult financial situation that CAL is in, that the company has engaged in downgrading fee-paying passengers to accommodate friends and family of the board?

**Mr. President:** [*Inaudible*] that question arises from any of the answers given? I cannot allow the question.

**Sen. Deyalsingh:** Further supplemental, Mr. President. Could the hon. Minister say how the fuel subsidy of \$40 million is treated in the accounts, under what heading?

**Sen. The Hon. L. Howai:** I do not have the answer for that question, Mr. President. I will find out and I could answer the question subsequently.

**Sen. Deyalsingh:** Further supplemental, Mr. President. Could the hon. Minister state whether the fuel subsidy was meant to be a short-term measure and when it was supposed to have ended?

**Sen. The Hon. L. Howai:** Mr. President, the fuel subsidy is intended to end in 2015 and that has been communicated to CAL.

**Sen. Al-Rawi:** Further supplemental, Mr. President. Is the hon. Minister able to disaggregate the \$40 million fuel subsidy between Air Jamaica and CAL itself? [*Desk thumping*]

**Sen. The Hon. L. Howai:** Mr. President, no, I am not able to do that at this time but can get that information for the honourable Senate.

**Sen. Al-Rawi:** Further supplemental. Is the hon. Minister able to confirm that the US \$40 million fuel subsidy is with respect to both airlines?

**Sen. The Hon. L. Howai:** Yes. Mr. President, the information I have is that it refers to both Air Jamaica operations and the Caribbean Airlines operations. It is one fuel subsidy to Caribbean Airlines.

**Sen. Deyalsingh:** Further supplemental, Mr. President. Could the hon. Minister state, with regard to the US \$70 million loss, what was the component for Air Jamaica?

**Sen. The Hon. L. Howai:** Mr. President, the estimate we have for Jamaica is US \$32 million.

**Sen. Al-Rawi:** Further supplemental. Is the hon. Minister able to clarify the position with respect to the \$40 million fuel subsidy? Is that for the year 2012 only?

**Sen. The Hon. L. Howai:** It is the amount that has been budgeted in the current year, which is the same amount that was budgeted for last year, which, we run the fiscal year for us as 2012/2013, but it would have been the same amount last year. So in effect, for the calendar year January to December, which is the fiscal year for Caribbean Airlines, it would have been the same number.

**Sen. Dr. Henry:** Further supplemental. Hon. Minister, in your answer to part (b) of the question, you mentioned that there were no suitably qualified pilots for the 767.

**Sen. Singh:** To train, to train.

**Sen. Dr. Henry:** Right. But the American pilots who were brought in, you made no reference to whether they were granted work permits. Can you clarify that, please? [*Crosstalk and desk thumping*]

**Sen. The Hon. L. Howai:** Mr. President, the advice we have is that all of the pilots brought in to train the Trinidad pilots and to fly alongside them did receive all of the work permit approvals required.

**Sen. Al-Rawi:** Further supplemental, Mr. President. Is the hon. Minister able to assist us, with respect to the addition of the US \$70 million loss, adding on a fuel subsidy of US \$40 million, coming therefore close to TT \$800 million, is the airline solvent or insolvent?

**Sen. The Hon. L. Howai:** The airline remains solvent. The Government had made certain provisions for the airline to restructure its balance sheet. One of the things that they had done is use a lot of their cash to actually do the acquisitions of the planes.

What I have instructed is that we do a new restructuring of the balance sheet where you would need to borrow and therefore replace the cash which had previously been used, and it is better to leverage the asset rather than leave it unencumbered but having the company incurring significant debt obligations. [*Desk thumping*]

**Sen. Al-Rawi:** Further supplemental, Mr. President. Insofar as that answer points to the good sense in leveraging the assets and not borrowing from the cash of the company per se, is the hon. Minister able to tell us who took that decision to finance it in that manner? [*Crosstalk*]

**Sen. The Hon. L. Howai:** Mr. President, I believe that it was—that decision had been made by the board a couple of years ago, but I do have to say that I do not have those facts at my fingertips, I do not have that information available, but I can get the information should the Senator so require it.

**Sen. Deyalsingh:** Could the hon. Minister say who was the line Minister at that time?

**Sen. Ramlogan SC:** “Well, yuh cyah say that! That was under the PNM; that is “what de man tell you”.

**Sen. Deyalsingh:** Two years ago.

**Sen. The Hon. L. Howai:** Mr. President, I do not recall. I would need to again find out.

**Sen. Al-Rawi:** Is the hon. Minister willing to assist us—sorry, Mr. President, further supplemental. [*Crosstalk*] Is the hon. Minister able to assist us with the contingent plan moving forward to meet the losses which we have just been informed of—the \$800 million loss arising out of your questions?

**Sen. Singh:** “Dai is ah new question.”

**Sen. Ramlogan SC:** “All yuh abusing question time now.”

**Sen. Al-Rawi:** Do not be misled by the—

**2.15 p.m.**

**Sen. The Hon. L. Howai:** Mr. President, I have received a restructuring plan and we intend to introduce significant restructuring of a number of the routes. We have already started that process with Air Jamaica and with the Jamaican routes. As I indicated, we incurred a loss of approximately \$32 million on those routes. We have already communicated with the Jamaican Government in that regard. The Jamaican Government in turn has, of course, indicated their concern with that, and we have undertaken to send a high-level team to Jamaica to discuss the matter further with them. However, as of now, our intention is to continue the process of rationalizing those routes so that we could bring down the cost.

A second major area of cost for the airline was the London routes. We were wet-leasing two sets of aircraft. Of course, we had one set that we had—I am sorry, I should not say that—we were leasing two sets of aircraft, one which we would have received, and the second which would have been the wet leases and those contributed significantly to the losses. Those wet leases have since been terminated, so that will also significantly reduce the overall loss. So, between those areas as well as the restructuring of the balance sheet in summary, and in a broad overview, I expect that we should be able to significantly reduce the losses of the airline during the course of this year.

**Mr. President:** Sen. Henry.

**Sen. Dr. Henry:** Further supplemental. Hon. Minister, I am a bit astounded that a company that cannot cover its operating costs [*Interruption and crosstalk*] and, or has no cash in the bank, how could you describe that as not being insolvent?

**Sen. Ramlogan SC:** I bet you were astounded. Give us a question.

**Sen. Dr. Henry:** Will the Minister confirm that without the additional supply of money from the Government, that the Caribbean Airlines would be cash insolvent?

**Sen. Ramlogan SC:** “Well, he just answer that, Faris—”

**Sen. The Hon. L. Howai:** Mr. President, the fact is that the company has assets. It may be cash strapped, but it has assets. The thing is, perhaps the decisions made in respect of how those assets would be leveraged and what kind of leveraging we would have for the balance sheet, was not something that perhaps may have been addressed in the way that perhaps others may have done.

**Sen. Ramlogan:** [*Inaudible*]

**Sen. The Hon. L. Howai:** As a result of which I think it is not a question of the company being insolvent. The company is in a position to access cash to leverage the assets that it has that are unencumbered, so I expect that with a restructuring of the balance sheet, we should be able to put, as well as other initiatives that we are putting in place, we should be able to return the company to some measure of viability going forward.

**Sen. Dr. Henry:** Yes, hon. Minister, so basically is this an admission that the company, given all the numbers you have called in terms of TT dollars in one calendar year, has ran up losses of close to TT \$1 billion?

**Sen. The Hon. L. Howai:** Well, we said the losses were approximately \$70 million and \$40 million which would be if you include the fuel subsidy—

**Hon. Senator:** Air Jamaica?

**Sen. The Hon. L. Howai:**—yeah, the \$70 million and \$40 million which would be in the region of about \$700 million.

**Sen. Al-Rawi:** Further supplemental, Mr. President, my last supplemental. Insofar as the hon. Minister has pointed to several poor decisions, could the hon. Minister indicate, with respect to that billion-dollar loss in one year or approximate, [*Crosstalk*] whether—is the hon. Minister—gentlemen, please, do not get so upset. Is the hon. Minister able to assist us, inform us, whether he is working with the Attorney General in pursuing any civil action for the billion-dollar loss incurred in one year? [*Desk thumping and crosstalk*]

**Hon. Senator:** No. No. No. [*Continuous crosstalk*]

**Mr. President:** Excuse me, Minister of Finance and the Economy, before you proceed, there seems to be some objection about who can answer a question. It is not for the Opposition to determine who answers questions, [*Desk thumping*] and therefore, if the question is in two parts, should the Government side wish to answer both those parts through two different Ministers, then they may proceed to do that. Minister of Finance and the Economy. [*Desk thumping*]

**Sen. Dr. Henry:** “De short answer, doh.”

**Sen. The Hon. L. Howai:** Mr. President, the short answer is no. [*Desk thumping*]

**Sen. Al-Rawi:** Further supplemental, changing my mind on the last. Is the hon. Minister able to tell us how he is tracking the losses moving forward? Is there a forensic audit to be had into this company? [*Crosstalk*]

**Sen. The Hon. L. Howai:** Mr. President, there is no hiding of the information whatsoever. The information is provided to the Ministry of Finance and the Economy on an ongoing basis, and I am tracking that on a monthly basis based on the accounts that are submitted to me preliminary and unaudited.

**Sen. Ramlogan SC:** “Yeah, well said, man.”

**Sen. Dr. Henry:** Further supplemental.

**Mr. President:** Sen. Dr. Henry, it is now 2.20—

**Hon. Senator:** Thank you.

**Mr. President:**—I would really need the authority of this Senate if we are to proceed with further questions, and I am fine with that, but obviously this Senate will have to have some consensus. We do have one other question on the Order Paper—

**Hon. Senator:** Two!

**Mr. President:**—two other questions and, therefore, perhaps at this point the Senate could indicate whether it wishes to extend the time for answering questions.

**Hon. Senators:** Aye! Aye!

**Mr. President:** All right, so we may do so. The Senate has unanimously agreed, I take it? I see no objections and, Sen. Al-Rawi, you may proceed with your question or Sen. Henry.

**Sen. Al-Rawi:** Sen. Dr. Henry—[*Inaudible*]

**Mr. President:** Or, Sen. Henry.

**Sen. Dr. Henry:** Hon. Minister, does the Government, through you, plan to take any action against the Board of Caribbean Airlines, given all of the negative press and information released in the press over the past few weeks?

**Mr. President:** Sen. Dr. Henry, you are not permitted to refer to the press or any—in asking questions. You may refer to answers given here, but not to the press. [*Crosstalk*]

**Hon. Senator:** “Dis is not ah debate.”

**Sen. The Hon. L. Howai:** Mr. President, the matter is still to be considered by Cabinet. At this stage there is no decision by the Government on this particular matter.

**Sen. Ramlogan SC:** Well said, man. Well said. [*Crosstalk*]

**Sen. Al-Rawi:** Mr. President, sorry, further supplemental. With respect to the issue of the work permits, would the hon. Minister be able to clarify, please, whether the pilots from Jamaica were working without the grant of a work permit or not?

**Sen. The Hon. L. Howai:** In fact, what had happened is that the company was of the view that, being part of the CSME, there was no need to get the work permits for these particular pilots. It was subsequently discovered that they ought to have done so, and immediately on doing so they did apply. So there was a period of time during which the pilots were employed, but without the work permits.

**Sen. Al-Rawi:** Is any action being taken against anyone at CAL for breach of the laws of Trinidad and Tobago in that regard?

**Sen. The Hon. L. Howai:** Well, Mr. President, that is a matter that we now have under review and a decision is yet to be made with respect to that matter.

**Sen. Dr. Henry:** Would the hon. Minister confirm that the former Minister of National Security wrote him a significant letter requesting clarification on this matter of the illegal pilots in Trinidad and Tobago?

**Hon. Senator:** Ooooh!

**Sen. The Hon. L. Howai:** Mr. President, yes. The matter was drawn to our attention by the Minister of National Security, and it is on that basis that Caribbean Airline was asked to revisit the matter, and proceed to comply with the requirements of the Ministry of National Security.

**Hon. Senator:** “Whoop!”

**Mr. President:** Sen. Hinds.

**SAS/SIA  
(Details of)**

**54. Sen. Fitzgerald Hinds** asked the hon. Prime Minister:

Would the Prime Minister, in her capacity as Chairman of the National Security Council, indicate:

- a. whether any persons were dismissed from the SSA/SIA between May 21, 2010 and January 21, 2011;
- b. if the answer to (a) is in the affirmative, from what posts/positions were persons dismissed and the reasons for such dismissals;
- c. how many Directors does the agency now have and who are they;
- d. when was the last Director appointed?

**Mr. President:** Sen. George. [*Desk thumping*]

**The Minister of National Security (Sen. The Hon. Emmanuel George):** Thank you very much, Mr. President. The answer to question No. 54 is as follows:

Question 54 is divided into four segments (a), (b), (c) and (d). The answer to part (a) is yes.

The answer to part (b), is that the director was dismissed in November 2010. A number of positions became redundant in December 2010, and these included: intercept officers; intelligence officers; and managerial and administrative positions as a result of a restructuring exercise.

In the national security sector review commissioned by the Manning administration, Maj. Gen. Cameron Ross and HCR International Security Limited, recommended that the Strategic Services Agency merge with the Security Intelligence Agency, which was not a legislated entity. This report cost the State, Mr. President—and I would like to mention this—\$3.1 million. In absorbing the SIA into the SSA, there needed to be a reorganization, restructuring and reallocation of work to comply with the SSA's new mandate. To facilitate the merger, it was necessary to create a new SSA organogram which involved rationalizing job functions, positions and the number of employees. Consequently, a number of positions became redundant as is common in mergers.

The answer to (c), is there is one director appointed pursuant to and in accordance with section 4 of the Strategic Services Agency Act, Chap. 15:06.

The answer to (d), is that the director was appointed on April 17, 2012.

Thank you very much, Mr. President. [*Desk thumping*]

**Sen. Ramlogan SC:** Yeah. Well said!

**Sen. Singh:** “Yuh want to ask about de telephone tappers?”

**Hon. Senator:** True.

**Sen. Hinds:** That is all right.

**Sen. Singh:** [*Inaudible*]

**Abolition of Appeals to Privy Council  
(Status of Proposed Legislation)**

**55. Sen. Fitzgerald Hinds** asked the hon. Prime Minister:

With regard to the statement made in Parliament on April 25, 2012 by the Prime Minister that the Government will bring legislation to abolish appeals to the Privy Council in all criminal matters and to cede such jurisdiction to the Caribbean Court of Justice, would the Prime Minister advise this Senate on the status of this proposal?

**Mr. President:** Attorney General. [*Desk thumping*]

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Mr. President, appeals to the Judicial Committee of Her Majesty’s Privy Council are provided for under section 109 of our Constitution. To transfer the criminal jurisdiction from the Privy Council to the Caribbean Court of Justice will require an amendment to section 109 of the Constitution. This amendment will require a three-quarters special majority in the House of Representatives and two-thirds in the Senate. The matter is currently under consideration by the Office of the Attorney General and further information will be forthcoming in due course when it is available.

Thank you. [*Desk thumping*]

**Sen. Hinds:** Would the hon. Attorney General then indicate how could the Prime Minister have made the declaration that she made as we approached independence of last year, our 50th anniversary, that that was going to be done without having first the blessings of the Parliament as you have just described?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, I think the hon. Prime Minister in a constitutional democracy which guarantees the right to freedom of political expression, was well within her rights to make an announcement of the Government’s policy intention and that is what she did. [*Desk thumping*]

**Sen. Hinds:** Would the Attorney General tell this Senate that what the Prime Minister put was not a statement of policy, she told the people of Trinidad and Tobago we will get accession to the CCJ.



**Mr. President:** Sen. Hinds?

**Hon. Senator:** That is your opinion. [*Crosstalk*]

**Hon. Senator:** Standing Order 17(d), Mr. President.

**Mr. President:** I was not allowing the question, Attorney General.

**Sen. The Hon. A. Ramlogan SC:** Mr. President, I did not propose to answer either, thank you.

**Sen. Deyalsingh:** Further supplemental, Mr. President.

**Mr. President:** Senator.

**Sen. Deyalsingh:** Could the hon. Minister state whether the decision to bring in the Caribbean Court of Justice was one taken by consensus within the Cabinet of all the parties of the coalition?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, as my learned friend well knows, the workings of Cabinet are privileged and those are matters that are confidential. The sanctity of Cabinet must be respected. [*Desk thumping*] The Prime Minister, however, as the head of Cabinet speaks for the Government of the country.

Thank you.

**Sen. Deyalsingh:** Further supplemental, Mr. President. Our bringing home of the Caribbean Court of Justice, is it to handle both criminal matters and civil matters at the same time?

**Sen. The Hon. A. Ramlogan SC:** I believe my learned friend is well aware that the policy announcement was limited to a partial conferring of jurisdiction in relation to criminal matters alone for the time being.

**Sen. Deyalsingh:** Further supplemental. Was not that same policy announcement that the CCJ will come to Trinidad in time for independence 2012?

**Sen. Singh:** "I doh understand dat?"

**Sen. The Hon. A. Ramlogan SC:** I think my learned friend needs to perhaps reflect upon what was said to understand what was, in fact, said by the Prime Minister. It seems as if he completely misunderstood it and hence the reason for the misleading questions. But permit me to reiterate and to clarify. What the hon. Prime Minister announced as a policy decision of the Government, was that the Government considered that the criminal jurisdiction, which was vested in the Judicial Committee of Her Majesty's Privy Council, be transferred to the CCJ and that was limited to the criminal jurisdiction. That much was definitive, it was clear and I see no room for doubt or misunderstanding or ambiguity. [*Desk thumping*]

**2.30 p.m.**

**Sen. Deyalsingh:** Further supplemental, Mr. President: would the hon. Attorney General state whether he, in fact, supported the hon. Prime Minister's statement at the time that he, the Attorney General, saw no legislative obstacles to bringing home half of the Privy Council by August 31, 2012?

**Sen. The Hon. A. Ramlogan SC:** And the answer is yes. I supported then and I support now the statements made by the hon. Prime Minister and I further affirm [*Desk thumping*] that I was of the view that there were no legal obstacles at the time, legal advice having been sought on the matter with which I concurred.

**Sen. Deyalsingh:** Further supplemental, Mr. President: could the hon. Minister state now what are the legal obstacles encountered?

**Sen. The Hon. A. Ramlogan SC:** That is a leading question; it is a double-barrelled question.

**Sen. Hinds:** No. It is simple. It is a simple question.

**Sen. The Hon. A. Ramlogan SC:** It is predicated on the assumption that there were legal obstacles.

**Sen. Deyalsingh:** But you have just said that.

**Sen. The Hon. A. Ramlogan SC:** I "doh"—no, no. As I indicated, I sought legal advice, with which I concurred, that there were no legal obstacles. There is a divergence of legal opinion on the matter, but I remain of that view.

**Hon. Senator:** Aye.

**Sen. Deyalsingh:** New supplemental, Mr. President: now that it is clear that there are no legal obstacles, when could we expect to see the CCJ operating in Trinidad and Tobago?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, the CCJ has been operating in Trinidad and Tobago and it continues to operate. Even as I stand here today, the CCJ is operating in Trinidad and Tobago. Perhaps my learned friend is not aware, but the Caribbean Court of Justice is headquartered in Trinidad and Tobago and it operates in Trinidad and Tobago.

**Sen. Deyalsingh:** Further supplemental, Mr. President. I apologize if my question was unclear. Now that we have no legal obstacles, when will the CCJ be the appellate body, the final court of appeal, for matters originating in Trinidad and Tobago?

**Sen. Al-Rawi:** With respect to criminal jurisdiction.

**Sen. The Hon. A. Ramlogan SC:** As my learned friend knows, the Government has made no policy announcement with respect to that. The Government's policy announcement, for the umpteenth time, was limited to the conferring of a partial jurisdiction and my learned friend keeps repeating a matter and putting it in the whole. Perhaps if he asks the question properly and qualifies it and modifies it, I can respond appropriately. [*Desk thumping*]

**Sen. Al-Rawi:** Mr. President, by way of clarification to the question just asked, perhaps, is the hon. Attorney General able to tell us when the policy statement will allow for the implementation of the CCJ as the final appellate court with respect to criminal jurisdiction from cases arising in Trinidad and Tobago?

**Sen. Singh:** And the Opposition supports hanging.

**Sen. The Hon. A. Ramlogan SC:** Mr. President, as my learned friends well know, this is a matter, as I was at pains to point out, which requires the support of the Opposition. If my learned friends are prepared to say on the record, for the public record, when the Opposition is prepared to lend its support to the Government, so that we can confer that partial jurisdiction to the Caribbean Court of Justice, I would respond immediately to him. [*Desk thumping*] So can the hon. Senator tell us when the Opposition will give us their support?

**Sen. Al-Rawi:** Further supplemental, Mr. President. I am bound to take answers as they come to me, even if they are questions. But, Mr. President, is the hon. Attorney General able to tell us whether there is an intention to revisit the Treaty of Chaguaramas to make a reservation, and how is that reservation supposed to be achieved to allow for the bifurcation of criminal appellate jurisdiction versus civil appellate jurisdiction?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, the bifurcation of the criminal and civil jurisdiction is a matter that does not necessarily involve a reservation to the Treaty of Chaguaramas. That is a matter that depends on the sovereign will of the people and the Parliament of the Republic of Trinidad and Tobago. [*Desk thumping*] The obstacle to which my learned friends refer is personified in the Opposition of this country.

If the Opposition says to the country that they are prepared to support the Government's initiative and vote with the Government to amend the Constitution with the two-thirds majority that we need, then the Government can move forward with this; but until such time as the Opposition continues to play tricks and continues to ask for an answer to a question when the controlling answer lies in part in their domain, the Government cannot properly respond.

If the Opposition is prepared to state for the public record today that they support the Government's announcement to cede the criminal jurisdiction from the Judicial Committee of Her Majesty's Privy Council to vest in the Criminal Court of Justice, and they will support such a measure brought to the Parliament that the Government will bring such a measure; but they must say that unqualified, without any condition and they must say it today for the nation and stop playing games. [*Desk thumping*]

**Sen. Hinds:** Would the hon. Attorney General then tell us, why did you not seek the Opposition's intervention before making the wild announcement that you will?

**Hon. Senators:** A-a-a-a-h!

**Sen. The Hon. A. Ramlogan SC:** You see, Mr. President, we operated under the mistaken assumption and the unfortunate misapprehension that the Opposition will behave in a rationale manner and support what is good for the country. [*Desk thumping*]

**Sen. Al-Rawi:** Further supplemental, Mr. President: is the hon. Attorney General in a position to indicate whether the Cabinet and the LRC have yet considered the type of amending legislation necessary to achieve the stated purpose that he has just alluded to in his answer; and the second part to that question, Mr. President, if that is in fact the case, when are they able to provide the draft legislation to us?

**Sen. The Hon. A. Ramlogan SC:** You heard what I said? Mr. President, I give a commitment that we can provide that draft legislation within 48 hours of the Opposition indicating publicly, on the record, in this Parliament, that they will support such an amendment and within 48 hours it will be laid in the Senate. [*Desk thumping*] But they must stop trying to play games and fool the people by trying to dance all around without actually standing up under the spotlight. Tell the people of this country whether you will stand up with the Government and vote in favour of such a measure and we will bring it. [*Desk thumping*]

**Sen. Al-Rawi:** Further supplemental, Mr. President: is the hon. Attorney General able, therefore, to provide us within 48 hours with a draft copy of that legislation?

**Sen. The Hon. A. Ramlogan SC:** Mr. President, within 48 hours of the Opposition indicating, for the record, in this Parliament, that they will support a partial conferment of jurisdiction—the civil jurisdiction—from the Judicial Committee to the CCJ, a Bill can be drafted and presented. But until such time as they continue to vacillate on the issue and play political games with it, until such time as they come clean with the population and say that they will support such a measure, then I will not be lured into that trap and that false sense of political security to draft that Bill and give it to them only so that they could just raise another issue.

If you state here and now that the Opposition will support the Government on the issue of the CCJ getting criminal jurisdiction, the Bill will be put before the Senate within 48 hours. [*Desk thumping*] Stand here, man up and tell us what your position is! [*Desk thumping*]

**Sen. George:** Man up, man, man up!

**Sen. The Hon. A. Ramlogan SC:** Mr. President, I rather suspect there will be no further questions.

**Mr. President:** Minister of Sport.

### ANTI-DOPING IN SPORT BILL, 2013

*Order for second reading read.*

**The Minister of Sport (Hon. Anil Roberts):** Thank you, Mr. President. Mr. President, I beg to move:

That a Bill to provide for the implementation of the UNESCO International Convention against Doping in Sport, the establishment of the Trinidad and Tobago Anti-Doping Disciplinary Panel and the Trinidad and Tobago Anti-Doping Appeal Panel, the promotion of an anti-doping environment which encourages positive behaviour among participants in sport and dissuades them from using substances and prohibited methods and for other related matters, be now read a second time.

Mr. President, it is indeed a pleasure to be here as a guest in this higher House, this place of higher debate; this place of tempered emotions and intellectual brilliance. I was told over the years that when I come here I must conduct myself in a way that maybe I am not accustomed to, but sitting here this afternoon, I can tell you I feel at home because [*Desk thumping*] I must say that the lower place seems to be a bastion of good behaviour, maturity and parliamentary protocol, compared to what I have seen this afternoon.

But as Minister of Sport I can also say it is good to see the Opposition Members especially, that they are so fit; they are moving towards the healthy lifestyle; they have done—from Sen. The Hon. Fitzgerald Hinds—at least 12 squats over on this side; at least 45 over a period of 40 or 45 minutes. So they are very healthy and I commend them for that. [*Desk thumping*]

Mr. President, Trinidad and Tobago has a long history of excellence in sport. It goes way back to 1948 and I wish the hon. Sen. Elton Prescott was here because this Bill, he did in fact over the years play a great part in its coming to fruition here today.

*Anti-Doping in Sport Bill, 2013*  
[HON. A. ROBERTS]

*Tuesday, May 14, 2013*

But since 1948 when Rodney Wilkes—and this is the way the story was told to me by former President of the Trinidad and Tobago Olympic Committee, Mr. Alec Chapman, who was then the coach of Rodney Wilkes. They were not so privileged as we are now that our elite athletes go on Caribbean Airlines paid for by the Ministry of Sport or the SPORTT company; not on any free tickets or friendly tickets. They are paid for and they go first class or business class when they are going to represent the country.

Back then, Rodney Wilkes and Alex Chapman were on a ship. He said it took approximately 18 days to reach London in 1948 and 18 days is a long time in the career or the preparation of an athlete to perform at a high level. The coach has to conduct his sessions on a vessel without the ability to expand or to do different cross-training methods and so on and it was very interesting the way that Rodney Wilkes was able to maintain his power output, his strength on the way to those games and, as you know, he brought glory to Trinidad and Tobago, winning our first Olympic medal in 1948 with the silver medal in weightlifting.

After that, we continued, in 1952, with Lennox Kilgour and Rodney Wilkes winning Olympic medals; and, of course, you can also remember, in '52, while not representing Trinidad and Tobago, but a son of the soil representing the British Empire, McDonald Bailey also won a medal in the Finland Games in '52.

We have had great success over the years. Everybody is aware of '64 when we won two medals, silver and bronze, with Wendell Mottley in the 400 and the relay that has brought us such glory. Our gold came in 1976 with Hasely Crawford. At that time, it was the first time that Olympics was really coming live on television sets and people in villages across Trinidad and Tobago, they got to the Curtis Mathes, the one house that might have had a television set, and looked at that final and saw Hasely Crawford in lane one with his red and white striped socks blazing to victory with Quarrie coming on at the end and bringing glory to Trinidad and Tobago. [*Desk thumping*]

We did not have much success for the next 20 years. It was 20 years after that gold medal in Montreal that we got our next medal success, a double bronze by Ato Boldon in the 100 and 200 in Atlanta, 1996; and Ato Boldon again in Sydney winning a silver and a bronze in the 100 and 200 respectively.

George Bovell III: and yes, if I smile a bit when he brought home glory, to Trinidad and Tobago in 2000, I am sure my colleagues on this side would not begrudge me a little smile here in this august Senate; and when he brought bronze medal in the

200 metres IM in the swimming pool in Athens, 2004. Of course, our great sprinting sensation, who is still running and who brought double silver in Beijing and continues to represent Trinidad and Tobago at the highest level; and again brought a bronze in 2012.

We had the most success in the history of the Olympics in London 2012 with one gold and three bronze with 11 finalists and a multiple personal best. So, Trinidad and Tobago has been put on the map through our athletes and we appreciate their efforts and I am here today to pilot the Anti-Doping in Sport Bill, a very important Bill.

I had the great opportunity and honour to pilot the Bill in the Lower House a couple of weeks ago, so I will not bore my hon. Senators on this side or the other side by regurgitating what I stated before; but I believe that I will take a different approach to help everyone understand how important this Bill is. I am very happy to say that it was unanimously approved and voted upon in the Lower House by both the Opposition and the Government because Trinidad and Tobago has been privileged over the years to have, whether by chance or by design; whether by education; whether great coaching or by just great integrity, parenting and community spirit, we have dodged the bullet of a major scandal or any major embarrassment by our Olympic medal or world championship medal winners having tested positive.

We hope that that continues [*Desk thumping*] and we will ensure by passing this Bill and ensuring that there are more people of the intellectual capacity and capital to educate, not only our coaches, our trainers, our massage therapists, our teachers, our teachers in physical education, our national coaches on all levels about the importance of clean sport.

#### **2.45 p.m.**

So I decided to move away from my prepared text and just to show how up to date, how interesting this topic is—just pulling a few articles from newspapers over the last two or three weeks—I would go through some of the most critical ideas as I believe that all hon. Senators would have read through the Bill clause by clause, and if there are any changes, any amendments that they would like to see, I would listen to their contributions and at committee stage the Government is most amenable to making any changes to make the legislation clearer or stronger.

Just here reading from the *Trinidad Guardian*, on page A59 on Thursday, May 02, we read that the IOC, International Olympic Committee WADA are upset in the ruling of a doping case in Spain. Now this stemmed from an incident way back in 2006, when a certain doctor was found guilty of performance enhancing or helping athletes cheat. [*Crosstalk*] Correct! But an unfortunate thing happened recently.

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In the case they found many samples—I believe it is about 200 samples of blood—and the World Anti-Doping Agency—the entire world—everybody who wanted clean sport, wanted to get these samples to be able to pinpoint those athletes who had cheated but, unfortunately, in Spain—I would just quote a little bit from the article with your leave:

“Olympic and anti-doping officials condemned a Spanish court’s decision to destroy the blood bags seized in the Operation Puerto case...Tuesday’s ruling by Judge Julia Santamaria, who ordered the destruction of more than 200 bags of blood and other evidence gathered in police raids on Spanish doctor Eufemiano Fuentes in 2006.

The Madrid court found Fuentes guilty of endangering public health and handed him a one-year suspended jail sentence. He was barred from medical practice in sports for four years and ordered to pay a \$6,000 fine.

Santamaria cited Spanish privacy laws for her decision not to turn over the evidence to anti-doping authorities.”

And this leads us to one of the most important issues here today.

This Bill, in our humble opinion, requires a three-fifths majority because, in the Constitution of Trinidad and Tobago, there is some debate about whether or not we have the absolute right to privacy.

Now, when you are talking about anti-doping, elite athletes over the years—and I would go a bit more into the history—but an elite athlete is more than a normal citizen because of the history of anti-doping and cheating and, therefore, the way that drugs assist, it is absolutely essential that this legislature, that we understand here in Trinidad and Tobago, if we are to have any effect, the most potent test for drug cheats occurs out of competition because the way drugs work is that you utilize them when you are training.

So there are two types of testing. “There is in-competition when we see them on TV and dey win dey gold medal and de top three medalists go and do their testing,” and then there is also a random one—one of the other finalists who finishes from fourth to eighth goes to test. That is called competition testing.

Out-of-competition testing means that the testers can come at any time anywhere and give you—once they present you with the forms and you sign them, you have a specific period in which to give them a sample. Failure to do so on three occasions, or failure to advise the authorities whether it is the—for example,



in Trinidad and Tobago—the Trinidad and Tobago Olympic Committee or the world body governing your sport—whether it is swimming, cycling, archery or whatever sport—failure to advise them of your whereabouts will constitute a breach.

For example, Venezuelan world championship swimmer, Albert Subirats who when he was younger I was privileged to coach and was a brilliant athlete and had all the necessary requirements to become a world champion unfortunately, the year before the Olympics, he missed three out-of-competition tests.

The testers went to where he said he would be and he was not there. So he said he would be in his training base in the USA, they presented themselves, he was not there. They said he said he would be in Caracas. When they went down he was not there. Three times that happened, therefore, he could not swim in the Olympic games. He was banned for missing three tests that constituted a positive test.

Very important, because, this is how—many people feel—rightly or wrongly, but it is really wrongly—but the perception is out there that we sitting down here, “We can take an injection or take ah steroid or take ah tablet and all of ah sudden Sen. Hinds could run ah 100 in 9.96.” We know that his best time in his heyday was about 15.43, [*Laughter*] but it does not work like that. There is no instantaneous improvement in athletic performance with any magic potion.

What happens is when the athlete is training, there are different substances which aid especially in recuperation. For example, we use George Bovell as an example. He may have to do—[*Crosstalk*]—I will leave you out of it. Okay. But you used to be a good athlete. “Yuh doh remember dat? We could go into that after. [*Laughter*] George Bovell, for example, he may have to do, per week, 12 sessions in the pool lasting two and a half to three hours, as well as four sessions in the gym lasting two to three hours, as well as four sessions per week of an hour to an hour and a half duration stretching and doing calisthenics.

Now, when a coach has to plan or periodize or create a training regimen for an athlete, a very important part is the rest, relaxation and recuperation. When we are all sitting here and when Senators opposite were up and jumping up, they were using different energy systems which function simultaneously. There is the ATPCP system which gives you the power and the drive to produce explosive events, to give you speed. There is the lactic acid system as well as the aerobic system which is for longer distances. All work at the same time.

However, in human beings there is only so much that a human being can take with regard to workload. So a coach will have to design—when he is working different energy systems—how many sessions per week he can get with that aspect or that area of development and factor in the amount of rest.

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So, for example, if George Bovell is trying to sprint and he wants to work his lactic acid system to finish the last 18 metres of a 100-metre race when the lactic acid is building up and you are tightening up, your muscles are burning, you are feeling that you cannot go anymore, the most that he could do as a normal natural human being, even with great psychological ability to take pain, to take pressure, to be disciplined, to be really motivated, the most he would be able to do is three sets of a duration of approximately 30 to 45 minutes per week, and if you go above that you would get diminishing returns. He would get sick, his immune system will drop so any little virus that is going on, anybody sneezes or if he goes and shakes someone's hand, his body will break down. The body will tell you enough, stop.

However, if another athlete does the same amount of work but takes an illegal substance—whether it be a steroid, growth hormone and so on—they recover much faster. So, therefore, their coach can work them harder per week. So if you are cheating, you may be able to do six sessions of 45-minute duration at that intensity and, therefore, your body will adapt upwards to that stress, and you can perform better when the time comes.

So it is during a sustained period of training that if you cheat and use performance-enhancing substances that you will derive a benefit. Therefore, it is incredibly important that you have the ability to do out-of-competition testing, which means that if it is that people or athletes or citizens of Trinidad and Tobago have a right to privacy, then this legislation requires that three-fifths majority, because you are going to be breaching their right to privacy, but one must say that historically, being an elite athlete, you understand and the convention and the historical application of each sport. You have already given up that right as an athlete.

For example, I was coaching Leah Martindale back in 1996. She was a Barbadian athlete and the first woman of color ever to make an Olympic final. She made the final in the 50-metre free 1996 Olympics. She finished fifth. She was training in Trinidad and Tobago, staying in my mother's house on Newbury Hill. When we were training, we were training in a pool that used to exist at Queen's Park Hotel which is now TGI Friday's.

**Sen. Deyalsingh:** “That is long time, boy!”

**Hon. A. Roberts:** Very long time. “So, you see, we in this thing long time.” We got in the pool normally at 4.00 a.m. and at 5.15 a.m., while she was doing a session, back in 1996, ahead of the Olympics, the officials associated with the Trinidad and Tobago Olympic Committee had been instructed by WADA—because in 1995 she got into the top 10 in the world in Rio Janeiro, Brazil—to conduct an out-of-competition

test. So here it is we are coaching 5.15, 5.20 a.m. and these officials come in with their forms. She had to sign the form and she was allowed to complete her workout and then give her sample. Had she not been there or had she not been in Trinidad, had she gone to Barbados to visit her mother and father, she would have been credited with one missed test.

So the out-of-competition testing, over the years, especially the last 20 years, has seen the London Olympic games, for example, being the cleanest. I will never say that it was totally clean, but it has become the cleanest games in a long time—a long time we mean at least two decades—because of certain measures taken by the World Anti-Doping Agency, because of countries implementing and passing anti-doping legislation, because of out-of-competition testing, because of improvements in testing and, most importantly, because of the freezing of samples.

Why is the freezing of samples very important? The cheaters are better financed. There is more money in cheating as you can see by another article in that same newspaper on Thursday, May 02—“Armstrong could face bankruptcy”. The US tax authorities are coming at him for US \$40 million, and they are saying because he has now been found guilty and all of that revenue—just from one sponsor. This is just from one sponsor.

He used to ride for the postal team, and they are saying because he gained all of this revenue and fame and so on because of cheating, they are now going after him to try to recoup some of that, and that is US \$40 million from one sponsor. At the height of his performance he had about seven or eight sponsors. So you can see there is a lot of money in cheating. So therefore, the cheaters are well advanced of the testers, because there is not as much money. Trinidad and Tobago will now, hopefully, get involved in a more meaningful way and ensure that our athletes or athletes who come to train here are clean.

The cheaters—for example, everybody will remember Marion Jones. We all celebrated in 2000 this lovely young lady running for the USA, but she was from Belize, so we felt an affinity to her performance, we felt it was close, it was around our region and we saw her obliterating the competition field going after the 100, the 200, the relay and possibly the long jump.

Little did we know that while she was smiling and celebrating, and you could not see a furrow, you could not look at that picture and see that there was any form of guilt in her eyes, in her face, in her expression, she looked like a genuinely happy, successful, brilliant, hardworking athlete who was now taking advantage of all the years of toiling. She was just reaping the benefits.

Soon after that, we found out that it was really a nightmare, but we did not find out through any brilliance in WADA or USADA or anti-doping legislation, we found out because a man did not get his money. Mr. Graham did not get his money, so he sold out the whole issue and then the world became aware of the effects of growth hormone.

Growth hormone occurs in each and every one of us. As we get older, it occurs in a little bit—in lesser amounts as we get older. That is why we have to sleep. When you sleep, your body creates growth hormone. So as an athlete, you go and you work out hard—you go in the gym, you lift your weights and so on, you get to sleep, especially that R-E-M sleep—that real sleep when your whole body basically shuts down—and you would see athletes twitching and so on. That is their body adjusting, the growth hormone healing it.

**3.00 p.m.**

Growth hormone occurs in all of us. There was no test for growth hormone. So Marion Jones would go take a test; there is no test whatsoever because growth hormone is in every single one of us, and the producers back then, the manufacturers, did not put a marker in it, so there was no way to know who had more growth hormone than they were supposed to. What that did, it enabled someone who was going to take—they are clear to recover faster, get bigger, stronger and faster and obliterate the competition. But because of the information coming out, now anywhere in the world—because growth hormone is normally used in hospitals to help with degenerative diseases, when children may be born unfortunately with cerebral palsy or they require—even in cancer patients to regenerate themselves, any form or fashion, any disease that causes loss of musculature and so on, growth hormone is used.

Since 2006, all manufacturers of growth hormone internationally put a marker in it that can be found. So if you take artificial growth hormone in your system, there is a test for it. It is very important now at this stage that when athletes give a test, USADA, WADA—Trinidad and Tobago when this legislation is passed, TADO—can freeze and keep the samples.

In other words, you may have someone celebrating right now from 2012 who thinks they won gold, but in four or five years we may see that a new test has come out and they will be stripped. “While some may say de glory is already gone, contracts may have been signed, money made, you have to keep fighting to keep de sport as clean as possible.”

As I say that, you could see here—[*Minister Roberts displays newspaper*] Olympic silver medalist—this was in the *Guardian*, on the same May 02—imagine three articles on doping in one newspaper, on one day. This Olympic medalist gets a 10-year ban for doping. “She went on up on de podium in de Olympics, collected de silver medal, went home as a hero, but—this story came out of Moscow”:

“Olympic discus silver medalist Daria...”—forgive me for pronouncing it poorly—”Darya Pishchalnikova has been banned for 10 years for doping and will be stripped of her medal, the Russian track and field federation said.

The ban annuls Pishchalnikova’s results from May 20, 2012, including her silver medal from last year’s London Olympics.”

So you see also the time lag and the problem sometimes with testing, because this random out-of-competition test was taken in May 2012. She competed in August when her event started in track and field. She had already tested positive, but they only stripped the medal in 2013.

So somebody who got a fourth place is now going to receive, quietly, anonymously, a bronze medal. What is even sadder, when this occurs—and we have a prime example in 2012—our heroine, Cleopatra Borel-Brown finished, I believe it was twelfth, and there were 11 finalists, so she could not get an opportunity to throw in the Olympic final. But a year after, the gold medalist tested positive, a few months after, and was stripped of a gold medal.

While we now say that Cleopatra is an Olympic finalist, she was denied the opportunity to throw in that Olympic final so, therefore history is skewed. We do not know what would have happened on that day if she had gotten an opportunity to throw, but she has to live the rest of her life knowing that that opportunity was stolen from her by a cheat.

Remember Keshorn Walcott was not favoured to win gold in the javelin. In fact, it would have been an absolute miracle if before anyone had predicted that Keshorn Walcott would have won gold. He was just the junior champion, and to move from junior into senior in an anaerobic power event—“you know de old people say man strength. ‘He doh have man strength yet’, that is an actual scientific fact.” It means that your anaerobic capacity is continuously increasing till you are about 25, 26, 27 in male athletes, and till you are about 18 or 19 in female athletes. So a young boy of 18 or 19 years can never throw his furthest, once he keeps training, does not get injured, all other things being equal, as when he is 24, 25, 26, 27. So Keshorn’s throw was miraculous.

On any given day, it depends on what luck you have, because in the semi-final, the world champion, the Olympic champion, had thrown 87 metres, but on that final day he could not muster and Keshorn won gold. Could that have happened if Cleopatra was there? “I doh know, but she would have had a chance.” She was denied that chance because somebody decided to cheat.

This is a very important, serious Bill. We have to deal with it as Trinidad and Tobago moves forward, not only in promoting Trinidad and Tobago through elite athletes, because no matter how much TDC spends, no matter how the Ministry of Tourism or THA spends on advertising Trinidad and Tobago, nobody could advertise this country better than our elite athletes, the amount of time that they get, the amount of coverage they get.

Just by example, in 2001, George Bovell went to Fukuoka, Japan to swim. He was ranked 44<sup>th</sup> in the world going into the competition. After the heats in the morning, he went a 201.65 in the 200 metres IM. Before that, his best time at the CISC CCCAN Championships was a 204.50. He dropped some three-odd seconds to be ranked No. 1 in the world, going into the semi-final.

When we walked out of the pool to go to the secondary warm-up pool to cool down and swim, the buzz of media in Japan came out and they were all asking, “TRI, what is TRI?” So there I was trying to explain, “Trinidad and Tobago, Caribbean, close to Venezuela; near by Jamaica, oil and gas, steelpan, calypso”, and they had no clue what I was talking about. Somewhere in-between I said, “Ato Boldon”, and in unison as a choir, all of these Japanese and Italian and German, these foreign reporters, all started saying, “Aaah, Trinidad Tobaago, Ato Boldon, Ato Boldon”, because we become synonymous with our great athletes.

Everybody could remember 2009 Champions League Cricket, when Darren Ganga and Trinidad and Tobago’s team performed so brilliantly, going undefeated until the final. Over 800 million people watched the semi-final and the final. So they saw Trinidad and Tobago on the jerseys, emblazoned for an average of three hours. If you were to put that down into monetary terms in an advertising way, the mind boggles how much it would be worth, but just to let you know, a 30-second advertisement during the Super Bowl of American football, the big final game in the US for an audience of approximately 120 million people, only the biggest, largest corporations could buy an advertisement at that time. Thirty seconds cost about US \$5 million—to buy a 30-second spot. So to see our athletes out there—

When Richard Thompson ran the final in Beijing, behind Usain Bolt, the numbers that NBC said were viewing were upward of 700 million people, viewing Trinidad and Tobago, viewing Richard Thompson pointing at his chest. And what were you reading? Trinidad and Tobago. It improves the mine share throughout the world every time our athletes perform, and then if people know about us, we can encourage them to come and take part in what we have to offer, whether it is our culinary arts, our ecotourism, our beaches, our business potential. InvestTT now has a brilliant ad out; so this is very important.

One thing that could hamper it, one thing that could have deleterious effects and negate all of that benefit, is to have one of our superstars test positive. So we would want to ensure that we continue to keep the pristine record of Trinidad and Tobago. Yes, we have had one or two small ones; I am not here saying that we have been perfect. This leads me on to the next point.

I heard down in the Lower House some people felt sorry that an athlete would take an over-the-counter drug, would test positive and his career will be impacted. Yes, as an ordinary citizen you feel for the athlete, but as an elite athlete you are not an ordinary citizen. So anything you put into your mouth, any cream you rub on your body, anything that can enter your body, you are responsible for. There is strict liability. Therefore, it is not okay to say that, “Mommy give meh a tablet and de tablet had ephedrine in it.” “Mommy give meh a tablet and it had furosemide.” “I went and took a massage and I did not know what cream or oil the massage therapist was using.” That is not okay.

Again, just trying to give you personal experience. Anytime an elite athlete, whether it is George Bovell, whether it is Kerry-Ann Gibbs, Terry Ann Evelyn, Leah Martindale, anytime we are at world championships and they are a ranked athlete getting into a final, anything they drink—if they have water around and they take a sip, if they rest that water down for a moment, they are not allowed to drink it again. They must open a fresh one. If they would like to drink it after, I have to hold it in my hand until they drink it. You cannot be irresponsible as an elite athlete. The world is not perfect, and when people know that you are coming to basically take what they want, all sorts of nefarious activities can go on.

Back in 1994, we saw an unbelievable thing happen. China who had not been good in swimming over the years—they had won their first Olympic medals in 1988 when, it must be noted, that a Trinbagonian won gold. Those of you who did not know that Anthony Nesty has Trinbagonian roots, from Suriname, he won gold in the 100-metre butterfly, but he has Trinbagonian heritage.

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At that time, China won their first Olympic swimming medals in history, since 1896, since the concept of the modern Olympic games was brought to Paris in 1896 by Baron de Coubertin. [*Desk thumping*] Then in 1994 in Italy, Rome we, saw China female swimmers coming to win 10 out of 14 gold medals, breaking nine world records and obliterating the world rankings.

When you saw the top 100, China had about 12, after previously having none. Then we found out that the East German coaches who had left due to the break down of the Berlin Wall in 1989/1990, and where the East German socialist Government at that time had a plan to promote socialism internationally, with a plan of sustained systematic doping across the board in all sports, as secret as their nuclear defence, those coaches were out of a job when the wall came down, and they found work in China.

But due to the work of USADA, of WADA and the out-of-competition testing after 1996 Olympics, between 1996 and 1998, 33 to 39 top world-class female Chinese athletes tested positive, and then they had to rebuild their programme. Now you see them working their way back up through hard work, through paying international coaches to come in. So the systematic doping is under control. No one knows if it is totally gone, but it is under control, and they have not had this sort of positive testing.

It is very difficult to get a positive test. When you hear an athlete test positive, understand that there is absolutely no doubt that they cheated. For example, in our bodies we all have something called testosterone and epitestosterone, some of us more than others, which would lead to boisterous behaviour, machismo and so on, but everybody has a ratio. Science has proven that the ratio is on average 1.2 to 1, testosterone to epitestosterone, in the body.

Do you know, to test up to four years ago for a positive test of testosterone, the World Anti-Doping Agency in order to ensure that on appeal nobody could claim that "I am a freak of nature, and I was born with a high ratio", the highest ratio known to man, recorded in science at the time, was two to one. So you would think that at 2.4, 2.5 or three to one, that you would get a positive test. They did not even go that low. They wanted to be so sure that they went up to six to one. So anytime you saw an athlete test positive for testosterone, it was above six to one, which meant the odds of that ever happening, the numbers were too big. It was nearly infinity; it was totally impossible, but this led to a lacuna.

### **3.15 p.m.**

Many athletes have the best doctors, the brightest doctors who, while they are training, they test everything. They test their lactic acid levels by giving them in-between training, stick their figure, put it on a laser, stick it in the machine, you know



what millimole, what level you are training at—their heart rate monitor, their glucose levels, their white blood count, their red blood count. This is how coaches do it now at the elite level.

So the doctors who are around would carry some of their athletes up to 5.5 or 5.7 to one, which means that they are cheating, but they have not crossed the threshold of a positive test.

This is what happened with—if you all remember—Ian Thorpe, one of the greatest swimmers of all time and we were celebrating his brilliance. We were thinking at 15 years old in Perth, Australia at the world championships when he came on the scene and he won the 400-metre freestyle, the world started to celebrate this young phenom. He was swimming 400 and 1,500 metres with a six beat kick.

Now anybody who knows, the largest muscles are in your leg area and so on. And previously, when Vladimir Salnikov was the Russian swimmer who was the long-distance guru, he would kick with just two beats. It was impossible to keep that going, to keep the oxygen going—thank you—to keep the oxygen flow going for such a long period of time, utilizing those big muscles, and here it was this man was kicking like an engine going down the road, “like he in great race”, and he would swim and not get tired. We celebrated, but there is a problem, a great problem with doping.

We all celebrated Lance Armstrong, and most of us are dejected, those who are sport lovers, that he was really a cheater. We saw in baseball, for example, as we talk about why we need to pass this legislation, because it shows that Trinidad and Tobago is serious about clean sport. When you understand the amount of money that is involved in sport, you have some organizations that will fight this. They “doh” want to have clean sport because most of their athletes they know are cheating.

You can see here another article came out in the *Express* on May 08, 2013; WADA calls for Australian Rugby League to cooperate.

“The head of the World Anti-doping Agency has urged the National Rugby League to stop stonewalling in this doping scandal...”

Now, why would a league stonewall? If most of your athletes are doing it. The athletes are the ones who generate the revenue, who make people pay for tickets, who fill stadia, who create men who want to wear jerseys, to buy merchandizing and so on. If you get rid of all your top athletes because they are cheating, you are getting rid of your sport as a money earner. So therefore there are certain federations, certain organizations, that do not want to clean up their sport. Some have said that baseball is similar.

Who can remember about 10/12 years ago, there was a big furor as Mark McGuire and a baseball player, Sammy Sosa, from the Dominican Republic were going after the home run record. They obliterated the record. The record was 82 home runs for one season, and these two men, they were going to see who will hit the most. They reached 85, 90, and then we found out, they both tested positive. Did baseball get a little bit more serious? Not really, because the money that is paid to these men to hit that ball out of the park, the average big hitting salary for a New York Yankee player—when you talk about—you are talking about seven years at an average of \$20 million per year to hit this ball, and that—they are only able to pay that if the TV rights, if people are watching, if merchandising is going on, if the franchises can pay, and if the players “doh hit de ball that far”, they think that they will lose interest. So a lot of the organizations try to fight it.

You have seen the NFL, the American football—big, strong, strapping fellas, 330 pounds able to jump from a standing start, jump up to 5 feet and so on. “Some may say is natural”; I do not know, but the NFL has not really put in serious anti-drug, anti-doping legislation or rules and they hand out a slap on the wrist for certain interventions.

So, another interesting—now, different sports, some people feel that, you know, anti-doping is just for sprinting or weightlifting or throwing a javelin or a hammer or cycling with blood doping and erythropoietin. Anti-doping includes any and all sports. This is just one-third of the list of prohibited substances, and this is about five pages each, just going on, and every day, every week these are updated.

There are drugs, some people would think when you watch archery, because you say you “doh” want to watch a sport that could potentially have cheating, so you turn on archery. You say there could be no drug that an archer will take, you know, because they are just hitting a target. Well there are certain drugs that slow your heartbeat down.

Most of us here, not so fit, but on that side I saw some fitness, their resting heart rates would be somewhere between 60 beats per minute and 75 beats per minute. An archer, when going to shoot at the target, they slow their heartbeat down to about 28 to 30 beats per minute, so that they release the arrow in between heartbeats because when your heart beats you shake, so they wait. When you see them there aiming and so on, they are ready. They do not release until their heart, it beats, and there is a pause, and they release.

Same thing for shooting: there are certain drugs that you can take that can slow your heart rate down. These are also banned substances.

Now, in different sports the technical capability is different. For example, sports with higher skill and technical levels, like golf, “there may not be many drugs that would help it because, “if you cyar hit de ball direct or if you doh know how to use a seven iron, a five iron, a chip and a wedge, then no amount ah drugs could help yuh because golf is not just about hitting de ball long.”

However, we are seeing now that even in football, some men—Deco failed a doping test recently two weeks ago. Deco was big Portuguese player, very skillful, but he tested positive in Brazil for furosemide, a diuretic which can help hide performance-enhancing drugs. Now it is very ironic that furosemide was also found in the system of the Brazilian—here Deco tested positive in Brazil. The Brazilian world champion and fastest human being in the swimming pool, Cesar Cielo, in 2011 in Brazil, along with four or five of his training partners, tested positive for furosemide.

Now, furosemide in itself does not enhance performance, but what it does it masks anything else that you are taking. So this is where—and the Court of Arbitration for Sport, if anybody could explain it to me, I cannot understand it up to now. There was strict liability which meant that the whole idea of anti-doping is that what is in your system, you are responsible for it. I cannot blame the coach. I cannot blame my mother. I cannot blame anybody. Once it is in there, strict liability. So I get banned. Cesar Cielo, Olympic champion, world double champion argued at the Court of Arbitration for Sport that he received a tainted sample of his vitamins from the factory—[*Interruption*]

**Hon. Senator:** Hmm.

**Hon. A. Roberts:**—and somehow, inexplicably, the Court of Arbitration for Sport overturned his positive test and allowed him to swim in the world championships Olympics, and Brazil has Olympics in 2016. Why they did that? How they did it?

**Sen. Deyalsingh:** Jack Warner was his lawyer.

**Hon. A. Roberts:** [*Laughter*] Well, you see. I am in a higher place so I will ignore Sen. Deyalsingh right now because I am a guest. [*Crosstalk*]

**Hon. Senator:** You are going well. [*Crosstalk*]

**Hon. Senator:** Very good.

**Hon. A. Roberts:** Mr. President, I am a guest here, so I will pretend that I did not hear hon. Sen. Deyalsingh. Thank you. [*Laughter*] I invite him to come downstairs. I will deal with that. [*Laughter*] [*Crosstalk*]

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So, Mr. President, we “doh” know why—we can surmise, but one thing I could say, it is a very dangerous precedent, because when you read Deco now, Deco’s lawyers—[*Interruption*]

**Sen. Deyalsingh:** Jack Warner’s lawyers.

**Hon. A. Roberts:**—are arguing that they told the media that the player’s positive result likely happened because of contaminated vitamins. So you see, they have opened up a can of worms for lawyers to start to argue about how things got into their system where previously it never existed.

Just to tell you how rampant drug-taking is over the years, this list here is about people who are—athletes international athletes—who have tested positive in the last six years. “Look at de pages, look at de names, look at de sports and let me tell you that it is harder to get a positive test than a negative one.” So when you see this, you understand and you can extrapolate about the amount and number of athletes who have chosen to cheat, whether it is ski jumping, power lifting, cycling, cricket, rugby union, shooting, tennis, biathlon, there is even one in here who—a big tennis player—Gasquet.

**Hon. Senator:** “Eh heh?”

**Hon. A. Roberts:**—but you know what he said? “He tested positive because he kiss a gurl and de gurl had de substance when he kiss her.” [*Laughter*] You all laugh, but I am serious. You hear some ridiculous things.

**Hon. Senator:** These things do happen. [*Crosstalk*]

**Hon. A. Roberts:** You hear some ridiculous explanations, but, once you uphold the principle of strict liability, then you can overcome these ridiculous arguments.

**Hon. Senator:** You can empathize.

**Hon. A. Roberts:** Sure. So over the years, we went through Cleopatra Borel, but some people, you know—“I trying to let yuh understand” that cheating is really a terrible thing in sport, and those who take advantage of it, I have no sympathy, empathy with them whatsoever because they can change the entire path of a human being’s life, a country’s life, anything, the amount of benefits that are lost because somebody cheated.

Let me give you an example; Ato Boldon in 2000, Sydney. He ran in lane eight in the 200-metre final. Now anybody who ran track and field and understands track and field, lane eight and lane one in a 200 running the bend, the worst lanes possible because if you are on the inside you are way out in front, people gauging you and you have to run a tighter bend, “so you cannot free up yuhself.”

On the outside—sorry, you are on the inside, you are way behind and you are running a tighter bend coming around. If you are on the outside in lane eight, where Ato Boldon ran in Sydney, you are way out in front, everybody else, the main lanes are three, four and five, they could gauge you, take you coming around the corner, the last 80 metres, “they going for hom”.

Ato Boldon ran for Trinidad and Tobago in lane eight and got a bronze medal. The goal medalist was Kenteris from Greece.

**Sen. George:** Yes. Yes. Yes.

**Hon. A. Roberts:** The gold medalist who in 2004 when it was in his homeland—remember the charade, “he and de other Greek athlete, the female one”—[*Interruption*]

**Mr. President:** Minister of Sport, I do not mean to take you on the inside, but you have 10 minutes more. [*Laughter*]

**Hon. A. Roberts:** Thank you, Sir. [*Desk thumping*] And I can assure you—[*Interruption*]

**Hon. Senator:** Smooth, Mr. President. Smooth.

**Hon. A. Roberts:** I can assure that I only require eight more minutes. I am being kept abreast by the leader there, Senator. Yes. “So Kenteris, the Greek hero, missed—[*Crosstalk*] yes, and they said dey crash ah moped, and dey miss dey test, basically they were kicked out, they tested positive, they were eliminated.”

Now was he clean in 2000? I do not know, but if we surmise that he was taking the same thing he was taking for 2004, the entire race would have changed, because in the semi-final Kenteris would not have been there because he would not have been cheating and he could not be so fast. Ato Boldon would have been in the semi-final and could have possibly gotten a better lane assignment whether it was three, four or five, and therefore would not have had to run at a disadvantage of being in lane eight, and that could have changed the path of history, because even in Trinidad and Tobago we have people on radio who proffer to be experts in sports because they sell Toyota, they think they know everything, but yet they do not understand, “they never pitch marbles and do not know. So we doh—and they say that Ato Boldon is not good, that Ato Boldon, they give him a boboli of the year award and all these sorts of things, when he has two bronze from ’96, a silver and a bronze, and a man who never pitch marbles could say that he get a “boboli” award.” Well I do not understand that.

But they also say that the reason for him being a “boboli” is that he never won gold. Now, I put an argument here today that possibly—[*Interruption*]

**Hon. Senator:** Yes.

**Hon. A. Roberts:**—if that race, if there was not a cheater in the race, Ato Boldon’s possibility is that Trinidad and Tobago’s possibilities —[*Interruption*]

**Hon. Senator:** Would have been golden. [*Crosstalk*]

**Hon. A. Roberts:** “Me, I get one every day. Once de PNM giving me “boboli” award, I accept. That mean I going good.” [*Desk thumping*]

**3.30 p.m.**

So, Mr. President, these are very important things. You would also remember Ian Morris, our 400-metre man from Siparia in 1992 Barcelona games when he finished fourth, the winner was Quincy Watts who later tested positive. Was Quincy Watts clean at that time? I do not know, but if he was cheating the whole race would have ended. Ian Morris may have moved from fourth to gold. If you remember when we was coming around the corner, that little look across, that glance across that cost him a medal, he would not have had to glance because Quincy Watts ran the fastest 200 in the history of 400-metre running. Was he natural or was he doped up? We do not know.

But what I can say here is that today in the Senate, we take a big step forward if we can unanimously pass this legislation and get it into proclamation in the right, effective manner, without proclaiming piece or the wrong piece, we would proclaim the whole thing, hopefully, and get down to serious business of sport, because TTADO, the disciplinary panel, all appointed by the President with the requisite skills to educate the population, to monitor not only our local athletes but our international athletes, is incredibly important, not only for Trinidad and Tobago’s thrust forward in sport tourism, but to ensure that we can all enjoy the performances of our athletes, sit down and know, rest assured that they were all clean performances, and when we cheer they will be cheers of joy and not tears.

Mr. President, I beg to move. [*Desk thumping*]

**Sen. Hinds:** Seven out of 10.

*Question proposed.*

**Mr. President:** Sen. Al-Rawi.

**Sen. Hinds:** Ten out of 10. Ten out of 10. [*Desk thumping*]

**Sen. Faris Al-Rawi:** Thank you, Mr. President.

**Sen. Hinds:** Ten out of 10. [*Laughter*]

**Sen. F. Al-Rawi:** I rise to make contribution to some of my fans opposite: Sen. George seemingly is one—

**Sen. Hinds:** Oh, yes.

**Sen. F. Al-Rawi:**—paying very close attention. Your level is amazing, my good friend.

**Sen. George:** I watch everything.

**Sen. F. Al-Rawi:** May I say, Mr. President, it gives me great pleasure to welcome the hon. Minister of Sport to this Chamber, to the Senate, and also to welcome Sen. Patricia Henry—Herry, forgive me—to this Senate on her first sitting with us this afternoon.

Mr. President, we have been regaled by perhaps one of the best anecdotal presentations in this Senate. It has been one hour nearly, seven minutes shy, and the hon. Minister of Sport did not refer to a single clause in the Bill.

**Sen. Hinds:** “Oooh God.” [*Desk thumping*]

**Sen. F. Al-Rawi:** I think that the hon. Minister of Sport has set a record in this Parliament for having piloted a Bill without reference to a single clause in the Bill. [*Desk thumping*]

Now, I must remind him and the Government, the Attorney General is not here as usual, but I say through you, Mr. President, the Parliament is for the making of law. The Parliament must be regaled with the information that it requires to consider the legitimate aim, purpose and reasonableness of any law that comes across our desk, particularly when we are debating legislation such as this one which requires an abrogation, exception to sections 4 and 5 of the Constitution. [*Desk thumping*] This Bill requires a three-fifths majority and, therefore, it was incumbent upon my learned colleague, the Minister of Sport, to speak to the balance and proportionality that this Bill has, if it does, so that the citizens of this country can be comfortable that their parliamentarians are doing their work.

Therefore, Mr. President, it stands as somewhat curious that the Government can complain, as we heard earlier today, about legislation and about doing work in Parliament when we could not even meet last week because we had no business on the Order Paper. [*Desk thumping*]

**Sen. Hinds:** The Prime Minister said so last night.

**Sen. F. Al-Rawi:** We spent two weeks to come here, because no work qualified under the Standing Orders of the Parliament of Trinidad and Tobago for this Senate to do work and, therefore, Mr. President, when we have a two-week hiatus where the Government cannot get its act together, it is even more so important that the hon. Minister of Sport come here and tell us about the law that he hopes to gain our support on.

Now, this Bill is six parts in its making; 38 sections long. It requires a proclamation to be effective. It establishes four entities, new entities, and therefore this Bill is originating legislation of a framework type. This legislation creates the Trinidad and Tobago Anti-Doping Organization—

**Sen. Hinds:** Right.

**Sen. F. Al-Rawi:**—the Trinidad and Tobago Anti-Doping Disciplinary Panel; the Trinidad and Tobago Anti-Doping Appeal Panel, and it also seeks to encourage the promotion of an environment for positive behaviour amongst participants. So that is, the Trinidad and Tobago Anti-Doping Organization; the Trinidad and Tobago Anti-Doping Disciplinary Panel; the Trinidad and Tobago Appeals Panel, but inside of there as well, Mr. President, the organizational chart sees the Trinidad and Tobago Anti-Doping Organization creating a registered pool of athletes, therapeutic use exemption committee and a results management committee.

The issue before us, Mr. President, is, firstly, is there a legitimate aim in seeking to pour scorn upon anti-doping in sports—on doping in sports, sorry? Is there a legitimate aim in pouring scorn on the use of enhancements, drugs and methods of application of those drugs? Is there a useful purpose in prohibiting it? The answer is obviously yes. If I were to be charitable to the Minister of Sport I would say that in his 51 minutes of presentation on stories and anecdotes, he has provided us with that information. But, Mr. President, the question that we need to look at right now is whether this Bill is reasonably connected with that legitimate aim. That is the second purpose that we need to look at. And the third purpose that we need to look at is the proportionality of the measures used in the Bill in relation to that legitimate aim.

**Sen. Hinds:** “Well putted.” [*Desk thumping*]

**Sen. F. Al-Rawi:** And that requires, Mr. President, for us to examine in particular whether there is a form of arbitrariness which is the antithesis of due process. If there is a form of arbitrariness in what we are doing, then the contemporary view of our courts at the highest level, the Court of Appeal, and at the Privy Council from a constitutional level, say that we ought not to engage in this exercise.



Now, Mr. President, the Bill itself seeks to say in its preamble, that it is necessary and expedient to give effect to the UNESCO International Convention. That is what it says. The UNESCO International Convention is the originating thought from which this particular law is born and it is closely tied to the code as it is referred to in the legislation.

Mr. President, coming out of those two particular pieces of international law we must look at why are we here as a Parliament. We are taking international law which Trinidad and Tobago has signed on to as the Bill refers and we are saying that we must, because it is necessary and expedient, put it into our local laws. We are taking avail of the process of dualistic theory of law.

We are saying it is not sufficient to sign an international piece of law and therefore bring it into effect, that would be a monistic theory of law. We are saying that the dualistic theory of law requires that we must have some local legislation to bring this law into effect, but in this instance, Mr. President, the answer to that lies in the very instruments, starting with the expressions of the State parties in the Copenhagen Declaration on Anti-Doping in Sport, following next with the International Convention against Doping in Sport and then dealing with the World Anti-Doping Code. Those are the three sources of authority that we must look to see whether the Preamble of this Bill is in fact correct, whether it is necessary and expedient to do this in the manner that we seek to do now.

Now, the hon. Minister of Sport in his presentation said, Trinidad and Tobago will now hopefully get involved. I wonder if he reflected upon the fact that in 2005, I believe it was, the Caribbean Regional Anti-Doping Organization was set up by Trinidad and Tobago, Mr. President, and that in that regional authority we have the Caribbean membership operating. Let me take a step back.

The world position in relation to anti-doping policy starts with the Olympic committees, goes next, Mr. President, to the world organization end, that is for instance conventions like the UNESCO Convention, it then goes to national anti-doping organizations, it then goes in terms of hierarchy to regional anti-doping organizations and from there, Mr. President, there are subsidiary bodies from international federations which engage in sport or individual entities. There is an hierarchy of structure.

That structure, Mr. President, when you look at the international level, when you look at the world position, starts with the Copenhagen Declaration on Anti-Doping in Sport, and that refers in its scope to the fact that participants—meaning countries—must act within the limits of their respective constitutional and other provisions and acknowledge the diversity in constitutional legal systems between Governments. It

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says, Mr. President, that the international provision should be implemented through instruments appropriate to the constitutional and administrative context of each Government. That is what the Copenhagen declaration says.

Mr. President, the International Convention against Doping in Sport—

**Sen. Hinds:** Teach them, man. Teach them.

**Sen. F. Al-Rawi:**—specifically says in its position, that under Article 5:

“Measures to achieve the objectives of the Convention.

In abiding by the obligations contained in this Convention, each State Party undertakes to adopt appropriate measures. Such measures may include legislation, regulation, policies or administrative practices.”

It says, Mr. President, that we are to go no further than the position of making appropriate law or recommendations or policies in keeping with our Constitution.

The world anti-doping code is the next source of international law, and that specifically has in its sections two very important provisions, the first and most important of which is section 118 which refers to the compliance conditions of States. Mr. President, the position in relation to this, if you permit me to read, is—and I am corrected it is not section 118 it is page 118 of the code, which refers to section 23(2) under the rubric “Implementation of the Code”.

“The following articles [and corresponding Comments] as applicable to the scope of the anti-doping activity which the Anti-Doping Organization performs must be implemented by Signatories without substantive change...”

That is the definition section in Article 1, the Anti-Doping Rule Violations, Article 2; Article 3, Proof of Doping; Article 4.2.2, Specified Substances; Article 4.3.3, WADA’s Determination of the Prohibited List; Article 7.6, Retirement from Sport; Article 9, Automatic Disqualification of Individuals—and Article 10, Sanctions on Individuals. It says also, Mr. President, Article 11, Consequences to Teams; Article 13, Appeals with the exception of 13.2.2 and 13.5; Mutual Recognition in Article 15.4; Article 17, the Statute of Limitations; Article 24, Interpretation of the Code and Appendix 1, the Definition.

**3.45 p.m.**

Those are the mandatory provisions from the code which must be put into effect. But what is staggering is that this Bill does not go that far. [*Desk thumping*]

So, we are here with legislation on the table, there is guidance in section 23(2) relative to the implementation of the code, we are proposing to create three new bodies, one with two or three subsets which I will come to in a moment, and we are not even meeting the target of the law that we are meant to be implementing, if this is in fact the appropriate way to do it.

Now let me explain what I mean by that latter purpose. The WADA website, the World Anti-Doping website, has a very interesting piece of work on it, Mr. President. It has a comparative study of legislation done by Barrie Houlihan and Borja Garcia from Loughborough University, is published in August 2012—[*Interruption*]

**Hon. Senator:** Loughborough.

**Sen. F. Al-Rawi:** Sorry, Loughborough, thank you so much, Loughborough. Mr. President, it says specifically that there are four types of adherence to codes and the four types of adherence were done by way of a survey through WADA into the 129 jurisdictions that in fact participate. They categorized the types of compliance with the code and the UNESCO Convention into categories: (a), (b), (c) and (d).

Mr. President, in category (a), there is specific legislation dealing with controlling the production, movement, importation, distribution and supply of performance enhancing drugs or PEDS as they call it, and category (a) has 18 countries: Austria, China, Cyprus, Portugal, Romania, et cetera.

Category (b) has general sports legislation where there are prohibitions against violence, corruption in sport, for instance, and they concern four countries: Greece, Nicaragua, Mexico, Luxembourg. Category (c) has general drugs legislation which covers some of WADA's rules and those include most notably, countries like Canada, the United Kingdom, the United States of America, India. Category (d) has a very different type—other legislation, medicine legislation, customs legislation, public health legislation, food and drugs legislation and they include: Australia, South Africa, Netherlands, Ghana, Cuba, Ireland, Kazakhstan and Morocco.

But, Mr. President, in looking at the various models of law, as I have, going from Oceania to North America, to Europe, to Asia, the only country that I came across, I believe that there are two: Bahamas is considering a particular type of legislation similar to this and Jamaica has legislation which is almost similar to this. Save for that, Mr. President, no country around the world has any legislation which resembles this—I have not found it yet. And that is very important, because our Commonwealth brothers and sisters have adopted a form, which is a very loose fitting form, to meet with UNESCO compliance. And what they have done is to say that they would establish in some instances authorities, they will establish in some instances bodies, but they will in

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all instances require a voluntary acceptance of the UNESCO Code or the WADA Code. They specifically contemplate that parties will agree to be bound. They do not contemplate under any circumstances the position where you are incepting legislation which will bind you specifically.

So we have two choices then, Mr. President. Do we adopt a model which says, we Trinidad and Tobago will establish an authority only; we Trinidad and Tobago, will encourage through a publication of policy on anti-doping, the voluntary buy-in of each association; we Trinidad and Tobago will in that model provide some form of facility to assist in that purpose or do we say strict legislation, offences, compliance as we do in this part?

Now, Mr. President, if I stick a pin on the arguments there for now, and I come back to the issue of constitutionality, because it is clear that the Government has adopted the second limb which is specific legislation, the position to be looked at is the first point, that it is not only whereabouts information and infringement on privacy from that perspective which require a three-fifths majority but, most importantly it is because blood samples, intimate samples, urine, biological material, are being provided under the auspices of this type of law in circumstances equal to our DNA laws, in circumstances equal to laws which impact our data and its protection.

Mr. President, what is spectacular about the Government is that nowhere in the contribution of the hon. Minister of Sport is there even an iota of reflection to the Data Protection Act in Trinidad and Tobago or to the DNA Act in Trinidad and Tobago. [*Desk thumping*] There is absolutely no explanation as to the state of proclamation of those laws.

I read out to you, Mr. President, the mandatory terms of the code which included the period of limitation. Let me give you an example of how bad the homework of the Government is.

**Sen. Hinds:** As usual.

**Sen. F. Al-Rawi:** The period of limitation under the code and under the UNESCO Convention is eight years. The statutory period of limitation in Trinidad and Tobago is four years. So we are specifically introducing legislation which is in contradiction to our period of limitation in Trinidad and Tobago. [*Interruption*]

**Hon. Senator:** What!

**Sen. F. Al-Rawi:** And the Minister says absolutely nothing about it.

**Sen. Hinds:** They “doh” know that.

**Sen. F. Al-Rawi:** The Minister is inviting a statutory construction summons as it used to be called under the old rules of the Supreme Court, or an interpretation action under the civil proceedings rules. The Minister has not told us that the state of the Data Protection Act lies in a mass of confusion, proclaimed only in part, certain sections in part 2 of the Data Protection Act, the rest of the Act unproclaimed.

The Act itself is perhaps unconstitutional, particularly because of its intrusion into the media; that is a fact. He has not told us anything at all about the DNA Act. He has not told us about the privacy treatment for intimate samples to be taken, but you know what else, Mr. President? Trinidad and Tobago—and Sen. Oudit will bear me out on this—is a signatory to the United Nations Convention on Children in whatever form it is called. The Minister of Gender, Youth and Child Development responsibility falling under her is fully aware that the Children Act is awaiting proclamation. But this Bill specifically speaks to taking blood samples from children. This Bill does not speak to the rights to destroy the biological samples.

The Minister did not speak to the *UK versus Marpar* decision in the European Court of Justice, where 19 judges of the European Union of that court set aside for breaches of Article 8 of the European Convention on Human Rights which is in similar terms to our Constitution, set aside the DNA provisions where you could not demand the destruction of samples taken. This Bill before us says, in relation to samples, that the samples may be taken, that the samples may allow investigation for anti-doping, but for other matrices as well. This Bill speaks nothing to destruction of samples or rights of individuals in that regard.

This Bill, Mr. President, speaks in sections 23 and 26 to the imposition of sanctions, of a pecuniary nature, of a property nature. The Minister makes no reflection to those. The rights, if you are found guilty of violation, of anti-doping, to have your property taken away, your earnings, your medals, your endorsements, the right not to represent your country taken away from you.

Let us look at the language of sections 26 and 23. Section 23 speaks to national-level athlete whereabouts requirements. Subsection (4):

“An athlete who does not comply with subsection (1) or (2) shall be—

- (a) ineligible for financial or other support from the Government
- (b) prohibited from participating in national and international competitions....
- (c) such other sanctions as may be provided for...”

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Section 24 speaks to:

“A sample taken from an athlete shall be analysed at a laboratory accredited by WADA...”

I will come to laboratories in a moment.

Section 26, Mr. President, says, under subsection (3):

“Rules made under subsection (1) may provide that any person who commits an anti-doping rule violation may be subject to one or more of the following sanctions:

- (a) disqualification from a particular...event;
- (b) ineligibility for participation...
- (d) suspension from participating...”

Mr. President, these things impact upon property rights of individuals, and therefore we must be careful that when we are passing three-fifths legislation, as this one calls for, that the Government condescends to the particulars which the Parliament must focus upon.

Now, Mr. President, if I were to say that the Bill is considering the introduction of the Trinidad and Tobago Anti-Doping Organization, which has as a subset the registered pool creation, the therapeutic use exemption and the results management committee, it is then at a separate section under part 4, creating the anti-disciplinary panel and a separate section, part 5, an anti-doping appeal panel. Mr. President, we are creating three independent entities all of which are required from an organizational perspective to be staffed, all of which are required to be financed.

This Bill says that the financing for these entities come from the coffers of the Government of Trinidad and Tobago. The taxpayers are paying for this. So we are creating three independent bodies. We have the Sport Company of Trinidad and Tobago; we have the Ministry of Sport in operation. Why are we creating three independent entities and what guidance do we get in relation to the creation of their staff?

Mr. President, do you know what this Bill speaks to in terms of staff? The Bill at clause 12 speaks to:

“The Board shall employ such members of staff as are required for the performance of the functions of TTADO on such terms and conditions as are agreed upon between the employee and the Board.”

Do you know what other laws around the world suggest? That the employees are public servants whose remuneration is fixed by the equivalent of the CPO, that there is a transfer of persons in the public service, that contracts, if they are given, are scrutinized

by the equivalent of the CPO, so that we do not find ourselves in a position where a board appointed by a Minister of Government [*Desk thumping*] has the liberty to contract at will, to sums that are undisclosed, without scrutiny of the Public Service Association, without scrutiny of the CPO, Mr. President.

We know that there is conversation in Trinidad and Tobago in relation to the Boxing Board of Trinidad and Tobago. By way of an example, the Minister has been asked to answer specifically his role in appointing an advisor, in relation to whom there are allegations of a conflict of interest. I am sure that the Minister will at some point answer those questions. I hope he does it today because it speaks to this Bill.

**4.00 p.m.**

The point is, Mr. President, we are creating three separate bodies here; staff to be appointed by the board appointed by the Minister, no CPO involvement, no form of scrutiny, no protection of the tenure of the officers involved there by the Public Service Commission, no route for them to manage themselves. So where are we going? How are we affording it, Mr. President, let alone tolerating the lack of specifics in this regard?

But, Mr. President, let us go through each body now: (TTADO) Trinidad and Tobago Anti-Doping Organization. That board is charged under this Bill with the responsibility of managing everything there. That board is charged with that responsibility.

The responsibility is set out in the Bill in clause 7, letters (a)—subsections (a) through (j) inclusive—set out the National Anti-Doping Programme is to be followed, information sharing, consulting and advising, making recommendations pursuant to section 37, which is to tell the Minister, do not fund any particular entity or individual.

But, Mr. President, how does a part-time board comprised of this fashion, because it does not speak to appointment on a full-time basis, how does it perform the managerial functions which we seek to give it in this Bill? I ask that question when the example of the United Kingdom and Australia stare us in the face with a very different form of formulation.

In the case of Australia there is an entity set up which is a specific authority—the Australian Act—[*Interruption*]

**Sen. Deyalsingh:** By an Act of Parliament.

**Sen. F. Al-Rawi:**—set up by an Act of Parliament, the Australian Sports Anti-Doping Authority Act, 2006, which is to be amended by the 2013 legislation, laid in their Senate. That establishes a body which speaks to the specifics of full-time operation via the auspices of a CEO, where the CEO staff comes from the public service,

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where the remuneration is blessed by the equivalent of the CPO, where advisory committees of the type contemplated by this Bill, our Bill, that is the disciplinary panel, the appeal panel—sorry, the registered pool of athletes, the results management committee, where those committees are set up via advisory services. Mr. President, but it speaks with specifics as to how people operate and we are very far from that, particularly when Trinidad and Tobago finds itself in a most invidious circumstance where we have \$208 billion of approved expenditure in the budgets to date, and we have no form of revenue identified other than oil and gas which is in flux right now. So how are we affording this moving forward?

Mr. President, by way of example, we do not only need to look at Australia and England, we can also look to instruments in our own Parliament. The Basel Convention, Act, No 2. of 2008 of Trinidad and Tobago which was established under a United Nations position and recommendation for the use of biological and toxin aspects specifically contemplates a model of the type that I just spoke of, a director-appointed, advisory committees appointed, funding specified.

But, Mr. President, where are we going in this context when the Minister is yet to tell us how we are going to operate with the Caribbean Regional Anti-Doping Organization (RADO)—the Caribbean (RADO), where Trinidad and Tobago is specifically a member and participates?

So, Mr. President, there is an existing structure in our laws. We are currently dealing with WADA in terms of violations, investigations and appeals. I have personally done cases involving allegations brought under the WADA code.

Mr. President, it brings me now to the other point on structure which is the laboratory. Where are we going in terms of mitigating the risks and therefore the proportionality of the Bill with respect to the samples that are to be taken from the athletes? Where are we going there? Where is the chain of custody protection? If it is to come by way of rules and regulations, where are the rules and regulations?

The Minister of Sport has come to the Senate today. It is his first trip to pilot legislation here, it is his third completed year moving into his fourth year.

**Sen. Deyalsingh:** Is so?

**Sen. F. Al-Rawi:** He has had going on to four years of work. Where are the regulations? Where are the rules? [*Desk thumping*]

The Jamaican equivalent law which I have problems with, which I think may be unconstitutional, has by way of specific reference to its schedules the rules and regulations, the subsidiary legislation.



**Sen. Hinds:** We should see.

**Sen. F. Al-Rawi:** We should see that. And we should see it, quite simply, firstly, because we do not trust the Government. [*Desk thumping*] Secondly, it would be proper and reasonable to say to the Minister, “You have had three going on four years. What have you been doing in terms of the preparation of rules and regulations? Why are they not here?”

Mr. President, he did not need to go far. The World Anti-Doping Agency has model rules for national anti-doping organizations. It is here. He could use it. He could bring the subsidiary legislation for reflection now, because this Bill is one in clause 2, which is to be brought into life by way of proclamation. We have been there and done that, in the position of not being able to trust the Government, to adhere to undertakings or reasonable positions of adherence with respect to what should be done when a Bill has to become proclaimed and what should be done prior. I refer, of course, to the section 34 debacle.

So how do we deal with creating framework legislation, legislation which requires positioning in respect of rules and regulations, where rules and regulations specifically provide for the ability of the Minister of Sport in this Bill to remove financing, to remove qualifications, if recommended to do so, to ban a national athlete? Clauses 23 and 26 specifically provide these facilities. So how do we do that? Where are we to have inspection of these things?

Mr. President, when we look further to the provisions of the Bill, I can tell the hon. Minister that the definition section has a lot of amendments to consider. I can tell the hon. Minister that the information sharing facets of this Bill require a congruous operation with the Data Protection Act. It requires adherence to rules and procedures prescribed there. The taking of samples under the Bill provides for a congruous operation with the DNA legislation. It is incumbent upon the Minister to speak to who will own, and therefore be responsible for, the management of the registered pool of athletes. Who controls that database? Who is responsible for the sanctity of maintaining that database? Who bears the liability in that regard? Who owns the intellectual property behind it lest the Attorney General starts looking there? So, Mr. President, the issue of that operation calls for very close inspection.

**Sen. Hinds:** That is why the regulations are so important.

**Sen. F. Al-Rawi:** Indeed, Sen. Hinds is reminding me that is why the regulations are required to be put forward now. [*Desk thumping*]

**Sen. Hinds:** Next thing, people tamper with them.

**Sen. F. Al-Rawi:** There is a requirement for an independence in the operation of the members of the (TUEC) the Therapeutic Use Exemption Committee which is in clause 17 of the Bill. Mr. President, how do we hope to achieve independence in operation when the appointments happen at the behest of the Minister of Sport, when the funding comes from the Minister of Sport, when the security of tenure of the public officers who are not yet specified, if any, or private officers is not provided for in this Bill, where you can have capricious change of persons, as this Government has shown itself capable of doing?

So, Mr. President, how do we deal with those circumstances to ensure the independence of the exemption? [*Desk thumping*] Has the Minister reflected upon the fact that the Therapeutic Use Exemption Committee, if there is one in Trinidad and Tobago, is subordinate to that in WADA, and that any work done by this body does not necessarily pass muster? Is the hon. Minister aware that Canada, the United States of America and England operate non-profit entities in most instances to ensure compliance with the UNESCO code?

Is he aware that the highest court of appeal under this Bill, the Court of Arbitration for Sport, is one which is built upon an agreement to arbitrate and to be bound? Is he aware that the reason why Commonwealth jurisdictions have opted for inviting organizations to be voluntarily bound by this code as opposed to specifying legislation is because there is a minefield of constitutionality to move around? I do not think, most respectfully, that the hon. Minister is in fact aware of that, otherwise he may perhaps have reflected on at least one clause in the Bill—at least one clause—which he has not done.

**Sen. Hinds:** And lawyers all around.

**Sen. F. Al-Rawi:** There are Senior Counsels sitting on the Bench in front, never present in this Senate when Bills are going on, but he could refer to them. [*Desk thumping*] So, Mr. President, where are we going?

**Sen. Hinds:** The AG does not have time for that.

**Sen. F. Al-Rawi:** Where are we going in terms of a legislative agenda when the highest Member of the Government of Trinidad and Tobago can stand in public and say that the Opposition is now responsible for legislative agendas in this country? [*Desk thumping*]

**Sen. Hinds:** Imagine that.

**Sen. F. Al-Rawi:** Do you know why the hon. Prime Minister has perhaps, from my perspective, abdicated the responsibility of the Government in that regard? Because it is clear that they are incompetent. [*Desk thumping*] It is absolutely clear to me that the Government lies completely and totally incompetent to bring any form of well-thought-out legislation forward. [*Desk thumping*] And most respectfully, Mr. President— [*Interruption*]

**Sen. Deyalsingh:** Shambles!

**Sen. F. Al-Rawi:**—I certainly do not think, although I would be happy to do it— [*Interruption*]

**Sen. Hinds:** “The AG do it in here today.”

**Sen. F. Al-Rawi:**—that it is the honourable Oppositions’ purpose to guide this Government out of disaster to disaster. [*Desk thumping*]

Mr. President, this Bill requires a lot of thought, genuinely. It requires careful interrogation. We need to know if Trinidad and Tobago is going too far too fast, put simply. Are we going beyond the call of duty? What about the incongruous statements and inconsistencies in the law as is, on the books of Trinidad and Tobago?—and I mean the DNA Act and the Data Protection Act and electronic means.

What about the integrity, and therefore the proportionality of managing samples, Mr. President? Where is the reflection for the certification of the institute to conduct testing in accordance with the laws of Trinidad and Tobago? I am sure Prof. Ramkissoon may speak to that.

**Sen. Hinds:** Accreditation.

**Sen. F. Al-Rawi:** Where is the accreditation requirement? Do we just abdicate our athletes of whom we are very proud to another jurisdiction, with inherent inconsistencies and risks there? Mr. President, we have to do much better than that. [*Desk thumping*] Mr. President, I honestly recommend to the hon. Minister of Sport, that he have a careful look at the laws of Australia, in particular, that he understand that the reason why the United States of America as a Commonwealth partner, why the United Kingdom, why other Commonwealth jurisdictions have not gone the route of specific legislation. I honestly recommend that he ask the question why.

**4.15 p.m.**

The hon. Minister of National Security is talking about “gallering himself”. I hope he is going to be prepared to “gallery himself” in national security, my friend. [*Desk thumping and crosstalk*] I hope that you are able to do it! “Constant talk coming across the other side there about gallery and talk.” Do your work!

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We want to join the aim. It is a legitimate aim, Mr. President. Controlling doping in sport is a legitimate aim. In that regard, I would say every Member of Parliament would be comfortable right now to submit themselves to a drug test and lead the way. [Desk thumping]

**Sen. Singh:** You might be paying for steroids!

**Sen. F. Al-Rawi:** And to show our position of our abhorrence for the use of illegal substances. I am sure that the hon. Minister of Sport will give us an undertaking that he abhors the use of substances that way as well. [Desk thumping] I am sure.

**Sen. Deyalsingh:** Especially of an incendiary nature.

**Sen. F. Al-Rawi:** Mr. President, the fact is we cannot say one thing and do another thing. [Crosstalk] No, I mean that sincerely. The hon. Minister of Sport is a gentleman.

**Sen. George:** Nothing that you say is sincere!

**Sen. F. Al-Rawi:** I am not sure what I am hearing, my learned—if you want to contribute in this debate, stand up!

**Sen. Hinds:** Ignore him! Ignore him!

**Sen. Cudjoe:** He will contribute later. “Doh let him waste yuh time.”

**Sen. F. Al-Rawi:** Mr. President, the hon. Minister of Sport has demonstrated his capacity to produce world-class athletes. He has! [Desk thumping] He is to be openly complimented for that, Mr. President. That is no mean feat. He has brought some glory to Trinidad and Tobago and I compliment him for that. But, the fact is, if he wants to continue in the vein of producing good work, we have got to do better than this current law on the desk. My fear is that it is unconstitutional, it is not fully thought out, there is an alternate method by which we can deliver this. I know that some of my colleagues will speak to the alternate methods that are available.

Mr. President, if you look at the categorization of laws in existence—the four categories—the fact—[Interruption]

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator’s speaking time be extended by 15 minutes. [Sen. S. Ali]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you, Mr. President. Sport as a deterrent to crime is an incredible entity. It is something which is beyond measure.

**Sen. Singh:** “So yuh support the Hoop of Life?”

**Sen. Hinds:** In principle!

**Sen. F. Al-Rawi:** Mr. President, I can tell the honourable—

**Sen. Deyalsingh:** Go on! Leave it!

**Sen. F. Al-Rawi:**—citizens of this country that my own belief is that sport introduced appropriately into schools, sport when designed to take care of narrow spaces and confines can bring miraculous results. I am an avid supporter of institutes like the Trinidad and Tobago Karate Association of which I have been a member for 20-something years. I can tell you that the work that we have done in entities there in teaching and in training the martial arts has brought incredible measure.

I can tell you that the Trinidad and Tobago Caribbean Union, that the karate college, in particular, as an entity of sport, has brought very good result in the curriculum. It is part of the University of Trinidad and Tobago. Credits are dealt with there. I can say that sport has the opportunity to change life. It has the opportunity to bring discipline. It has the opportunity to bring Trinidad and Tobago into a different forum; much like Jamaica is recognized for its track and field ability, where sport days in Jamaica are the golden event of the society where stars are seen and born.

It is for that reason and for the importance in sport deterring crime, encouraging positive attitudes amongst our youth, Mr. President, that the Government has to be careful to come up with the correct measures and balance. I hope that the hon. Minister of Sport will allow us the opportunity in committee stage to go through the details of inconsistencies in this law. I hope that the Minister of Sport will tell us what kind of funding is required for this particular model that he has proposed, where that revenue is to be generated, how much funds it is expected to achieve by way of charitable donations as opposed to Government of Trinidad and Tobago support. I hope that he tells about the staffing issues and the overlap between the three independent bodies and that he prepares himself for quite a long committee stage.

I thank you for the opportunity to contribute, Mr. President. [*Desk thumping*]

**Sen. Dr. Victor Wheeler:** Thank you, Mr. President, for allowing me to make a contribution on this Bill, the Anti-Doping in Sport Bill. I must commend the Minister of Sport for bringing this Bill this year, to bring us in line with the UNESCO Convention Against Doping in Sport, which was ratified by Trinidad and Tobago in 2007.

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Now, the aim of this Bill is to give effect to the world anti-doping code, but why is it necessary to fight sport—to fight doping in sport? We have heard the Minister of Sport give examples of our athletes' performance over the years and examples where we have been denied medals, or potential medals, because of persons who may have cheated. But, what really is doping? The word “doping” was derived from the Dutch word “dop”—d-o-p—which was an alcoholic beverage made of grapes skins which was used by the Zulu warriors to enhance their prowess in battle. But, doping originally referred to illegal drugging of race horses at the turn of the 20th Century. These horses were injected with performance enhancing drugs and that really was the start of doping in competitive sport.

In the early years of doping though, the ancient Greeks used special diets which contained stimulating potions to make them perform better, run faster. Cyclists and endurance athletes used caffeine—which is found in coffee—cocaine and alcohol to help them fight off the effects of lactic acidosis. That is when you have lactic acid building up in your muscles and then causing pain. In 1904, in the Olympic games in St. Louis, Thomas Hicks won the marathon using a concoction of raw egg, strychnine and doses of brandy.

I am just going to give some other examples of performance enhancers which have been used over the centuries. Asses' hooves—the hooves of the Abyssinian ass, was taken in powder form by the ancient Egyptians and boiled in oil, spiked with rose hips and that spike was used to mask the funky flavour because it was very toxic in taste.

**Sen. Hinds:** “Ass” is not unparliamentary? [*Laughter*]

**Sen. Dr. V. Wheeler:** Sorry, funky! [*Laughter*]

Sweet ether, which was used in the olden days to anaesthetize persons, was used to soak sugar cubes and athletes used that in the 1870s, and again, to fight off the effects of lactic acidosis. Swimmers were said to use a concoction of baking soda to, again, counteract the effects of lactic acid. The Russian scientists in the 1930s used ultra violet radiation which was said to give their 100-metres runners extra speed.

In the late 1800s, the physiologist Charles Brown-Sequard injected himself with the sperm of guinea pigs, and he claimed that that made him run faster and stronger, but this injection of someone with guinea pig sperm may have been the forerunner to the—  
[*Interruption*]

**Hon. Senator:** Testosterone?

**Sen. Dr. V. Wheeler:**—hormone-based performance enhancers, yes, like testosterone and others.

Now, coming to modern-day performance enhancing drugs, the Minister referred to unemployed doctors and scientists from the communist era and others who have been spending a lot of time and effort and research into creating performance enhancing drugs that will give athletes an edge. We have already heard of the benefits to excelling in sports. There is a financial benefit, there is also the benefit that Governments use by having their athletes portrayed as the best in the world.

But, I just want to stress that even though these drugs do or these performance enhancers do improve one's performance, we must recognize that they have adverse effects on the body. These drugs are dangerous. I am hoping that part of the Government's plan when they introduce this Bill is also to have an element that requires education of the athletes, public and general citizens at large.

Now, some of the examples of some of these modern type drugs would be the anabolic agents, like testosterone, which have legitimate medical uses, but it is when they are used in a manner that is not under medical supervision and it is used for another for which they were not designed that you can have effects. Anabolic agents can have the person developing extreme acne, male pattern baldness, liver damage, increased aggression, actually increased sexual appetite, and this can cause criminal behaviour to come in. Then, when they are weaning themselves off the drugs, you can have withdrawal effects and these withdrawal effects could be depression which could be so severe that it could cause suicide.

Other performance enhancing drugs which have serious effects would be beta-2 agonists, the drugs that are used in the treatment of asthma. They are actually stimulants, but they can cause your heart to increase rapidly, headaches, they can even cause muscle cramps. The Minister mentioned the use of diuretics which is a drug that is used in the treatment of hypertension, heart failure and this drug is used to—it causes the body to excrete urine, produce more urine. So that it is used to try to mask the effect of any performance enhancing drugs that they may use, but this can cause severe drop in blood pressure and dehydration.

Narcotics—cocaine is a painkiller and that can be used to mask the effect of lactic acidosis build-up in the body when someone is training. As the Minister said, if you can use a performance enhancer that will allow you to train longer and over more and at a higher level, that will obviously be an advantage to somebody who has to suffer the effects of having himself experiencing the body's response to training.

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One other thing I would want to mention is the use of blood doping whereby athletes remove blood from their body and then replace it—transfuse themselves with blood products in an effort to improve the oxygen carrying capacity of the body. Endurance athletes—again, cyclists and marathon runners—have used this in the past but I believe this is outlawed now.

Again, part of the reason for mentioning these effects is the use of these substances is dangerous. I believe part of the Government's role in introducing this legislation should be: educate the public, take it to the schools, because it is in the schools where competition starts, so they need to be aware that to try to get an advantage over their colleagues would place them at great risk.

Now, looking specifically at the Bill, there are a couple of clauses that I just want to highlight. First of all, clause 17 where it refers to the Trinidad and Tobago Anti-Doping Organization:

“...shall establish a Therapeutic Use Exemption Committee, (hereinafter referred to as ‘TUEC’) comprising three medical practitioners with at least five years experience, one of whom shall have qualifications in pharmacology.”

I would want to suggest that five years may be too short. You might want to consider at least 10 years, because you really want to have a doctor who has been functioning at the level of a specialist, and even though someone may be qualified after five years, you need another five years to have that relevant experience. So, what I am not clear though from it, is if you meant five years' experience post qualification or just five years as a doctor. If it is five years' post qualification, that would be—[*Interruption*]

**Hon. Member:** Post qualification.

**Mr. President:** It is now 4.30 p.m., I propose to take the tea break at this time. The Senate will stay suspended until 5.00 p.m. when we will regather.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

[MADAM VICE-PRESIDENT *in the Chair*]

**Madam Vice-President:** Now that we have a quorum, before the tea break Dr. Wheeler was on his legs. Dr. Wheeler, by the President's—you have 35 minutes remaining. Go ahead. [*Desk thumping*]

**Sen. Dr. V. Wheeler:** Thank you, Madam Vice-President. I certainly would not need that whole 35 minutes. As I was asking or clarifying with the Minister, the issue of the five years' experience, and from what I gather, it is five years, post qualification in this post-specialist qualification—I am presuming, right.



The other thing, there are three medical practitioners who we need to be on this Therapeutic Exemption Committee. I am just wondering if, in addition to one with qualification in pharmacology, you should not have one with special training in sports medicine, seeing that the athletes who will be coming for this exemption are likely to have various injuries that may require them to be on some form of treatment.

The only limitation in Trinidad and Tobago is that we do not have many sports medicine trained doctors, and they are likely to be already treating athletes, so that may be a little issue, but it would be nice to have someone with that level of competence on the Therapeutic Exemption Committee.

Now, the other clause to look at is clause 18. It says:

“WADA may, at the request of an athlete or on its own initiative, review the grant or denial of a Therapeutic Use Exemption and where WADA determines that the granting or denial of such Therapeutic Use Exemption did not comply with the International Standard for Therapeutic Use Exemptions, WADA may reverse the decision to grant or deny the Therapeutic Use Exemption.”

I am just wondering what exactly is the relationship of WADA with the local bodies. Because I believe I saw where the international Convention, the operationalization of these bodies is not mandatory, it is just suggested and it is best practice, but the local bodies, I gather, do not necessarily have to follow best practice in all of their activities. So I think it would need to be clarified exactly what is the relationship. Is it that WADA would be able to directly instruct these bodies to take certain decisions, or, if the local body does not agree with WADA, what is going to be the outcome? Is WADA going to be the determining factor in this?

The other area I just want to look at is clause 24, where it refers to the laboratories:

“A sample taken from an athlete shall be analysed at a laboratory accredited by WADA to detect prohibited substances and prohibited methods.”

I am pretty certain that there are no laboratories in Trinidad and Tobago that have this level of accreditation now, and if this Bill were to be passed, proclaimed and enacted next month, obviously you will have to use laboratories outside of Trinidad and Tobago. Seeing that they will be outside of Trinidad and Tobago, one would feel that the lab will not have any direct link with the local bodies.

It says here, the laboratories—at least this is from the WADA—must be accredited by WADA and there must be a requirement for compliance with international standards for laboratories to produce valid test results, to produce data which is uniform and harmonized. What you are trying to do is to eliminate the mistakes that may come

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about with testing, because obviously a test, [*Desk thumping*] you have an athlete whose future is at stake. So we need to—I am just wondering, in the absence of any local laboratories being accredited, how are we going to determine in which lab to send the samples?

Now, I know currently samples are sent—I think to Barbados at one time. I do not know if they right now go to the US and, of course, when you have to send samples abroad there is a cost factor in it. So, this aspect I think is going to be very critical because we have had the experience where you have the storage of samples which could be spoilt if they are not in proper controlled environments. We have problems with T&TEC where we have outages ever so often. The storage facility would need to at least have a generator to protect against that. Again, because the implication of a positive test is so severe on the athlete, these are areas I think we need to pay particular attention to.

Madam Vice-President, I am happy to support the intention of this Bill. It is required—it is likely to be expensive to implement, but I think if we are going to go the way of sports tourism, as the Minister seems to be working very hard on to attract swimmers, athletes, tennis players, the investments should be worthwhile and it will only redound to the benefit of the country.

I thank you. [*Desk thumping*]

**The Minister in the Ministry of National Diversity and Social Integration (Sen. The Hon. Embau Moheni):** Madam Vice-President, it gives me great pleasure to be afforded this opportunity to make a brief contribution on the Bill at hand, “a Bill to provide for the implementation of the UNESCO International Convention against Doping in Sport, the establishment of the Trinidad and Tobago Anti-Doping Organisation, the Trinidad and Tobago Anti-Doping Disciplinary Panel and the Trinidad and Tobago Anti-Doping Appeal Panel, the promotion of an anti-doping environment which encourages positive behaviour among participants in sport and dissuades them from using prohibited substances and prohibited methods and for other related matters.”

I will like to compliment the hon. Minister of Sport for bringing this piece of legislation at this point in time. [*Desk thumping*] It is indeed a very important piece of legislation which speaks to the development of our athletes, our sportspersons, our youth, because sport involves a diligent approach to human development. Our young people benefit largely from that holistic approach to their development. In addition to their academic, their spiritual, their cultural, their development in sport is critical.

When I say development in sport, I do not mean that sport contributes only to their physical development which is so critical. It gives us the development physically that enables us to pursue our endeavours with vigour and vibration. It also affords in so many ways an opportunity for our young people to relate to each other, to bond with each other, to exchange, to develop a sense of discipline. Sport in itself is a discipline, learning to work to a training schedule, to time, to developing our skills, to the development of technique, strategy and what have you. It is a discipline and it develops us in an all-round manner and, therefore, this piece of legislation must be given the due recognition and support.

Sport plays a very important role in the development of character, but today we are faced with a very serious challenge, and that challenge arose as we move more and more from the amateur side of sport to the professional side. When money became paramount and the stakes became high, individuals, organizations, sponsors, groupings, what have you, began to see sport as a channel, an avenue through which they could earn millions of dollars. As the stakes became high people began to resort to all different unfair tactics in order to earn those dollars. We need, therefore, to stem that tide.

We need legislation that could bring our athletes, our sports personalities, back into line, so that sport could continue to play that role of character building, not enticing and encouraging our young people to become cheats, to dishonour themselves, to dishonour their colleagues, to dishonour their team and to dishonour their nation, all of this outside of the physical damage that the use of illegal substances can do to us physically.

The World Anti-Doping Code seeks to encourage and provide the platform through which the true spirit of sport could be adhered to. In times gone by we spoke about sportsmanship. We spoke about adhering to the principles of the game. Whether we win or we lose, the most important thing was to participate to the best of our ability, develop the bonds, get to meet new people, encounter new communities, and what have you. Sport was seen as a pursuit of lofty ideals.

**5.15 p.m.**

Today we are challenged by the widespread use of drugs in order to gain quick dollars and I would just want to quote some of the values that are enhanced in the code: ethics, fair play and honesty; health, excellence in performance; character and education—most important—because by our participation in sport, we are able to build the principles and the values that could take us through life; fun and joy, very important; teamwork; dedication and commitment; courage, community and solidarity.

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And we saw only recently that one of our great sport personalities, Imran Khan, was able to come a close second in pursuit of the leadership in Pakistan; and while we share the pain of the fall and the injury he had, the doctors had it to say that because of his physical strength, the injury was less than it otherwise would have been.

I would just like us to take a look at what is happening in other parts of the world because Sen. Al-Rawi in his contribution would have given us the impression that this People's Partnership Government had moved so far away from what was taking place in other jurisdictions by the introduction of this piece of legislation; would have made us believe that what we were doing was almost a stand-alone. [*Desk thumping*] But this piece of legislation is to bring us in line with international developments; is to bring us in line with these very principles that we need to pursue, not only nationally, but more so regionally and internationally.

If we compare our legislation with what gives for the over 100 other jurisdictions in which they have passed legislation, we will see that we are very much in line with the rest of the region and the rest of the world. If you look at Part II of the legislation we are now seeking support for, you will see the establishment of the Trinidad and Tobago Anti-Doping Organisation. I would just compare it with Bermuda; [*Desk thumping*] Part II of the Bill, the Anti-Doping in Sport Act, 2011 of Bermuda; establishment of the Bermuda Sport Anti-Doping Authority, the ASADA and the board.

If we move on to Part III of our legislation, anti-doping, with application for therapeutic use exemption; with the Bermuda legislation, testing and doping controls; also they have provision for exemption with regard to therapeutic use.

Part IV, Trinidad and Tobago Anti-Doping Disciplinary Panel; Part V with the Bermuda Anti-Doping Appeal Panel; Part V in the Trinidad and Tobago legislation, the Trinidad and Tobago Anti-Doping Appeal Panel. Part IV, with Bermuda, the Bermuda Anti-Doping Disciplinary Panel.

**Sen. Singh:** Teach them! Teach them!

**Sen. The Hon. E. Moheni:** Part VI, Trinidad and Tobago, miscellaneous, in which conflict of interest and such—Bermuda, likewise, miscellaneous.

**Sen. Singh:** Why he had to go down there? Al-Rawi went down under.

**Sen. The Hon. E. Moheni:** So that—and we could go to the British legislation, again very much in line with what we have in Trinidad and Tobago, with our proposed legislation. [*Desk thumping*]

Likewise, we could go to Barbados, the Bahamas, Canada, Costa Rica, Mexico. So that this piece of legislation is very much in keeping with the region as well as the international community, in terms of our determination to fight the use of illegal substances in sport. [*Desk thumping*]

The pursuit of these principles, likewise, looks at the responsibility of our athletes across the board. We could draw from any of these legislation. They follow the same approach. The athlete must accept responsibility. The athlete must exercise due diligence, but they go further than this. They also look at the responsibility of major events organizers. In other words, it has to be a holistic and all-inclusive, a collective approach to combat this malaise and sponsors are also called upon to share in that responsibility.

So, Madam Vice-President, it is not a question of Trinidad and Tobago being a stand-alone by introducing this piece of legislation; it is more a question that the People's Partnership Government is trying to take us from the position where we were a stand-alone for too long. [*Desk thumping*] And it speaks to the responsibility of the Governments to ensure that they create the environment; they create the structures, so that it becomes difficult for athletes to be involved in unfair practices.

And we know that fair play in sport is something that we prided in the past and we have to think that sport today is supported by millions of patrons around the world and when we pay our money to go to a sporting event, when we cheer for those athletes or those sportspersons whom we support, we would like to know that they have a fair and equal opportunity to win. We would like to know that the playing field is a level one and that when we put out our money as patrons, we do not pay to go to events where there is cheating and where the playing field is not level.

Likewise, our sponsors who put out, in some cases, millions of dollars, they would like to know that they are putting out their money for activities that are fair and above board. They would like to know that when they put out their millions of dollars to assist in the development of the sport; to assist in ensuring that our athletes could achieve excellence; that our athletes could represent their teams and their countries to the highest level.

They would like to know that when they put out their money they are doing it in an environment of fair play; and they would like to know that their product can be associated with a sporting event that the national community, that the regional community, that the world community could feel proud to be a part of, and that is the importance of this piece of legislation.

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So, once again, I would like to commend the hon. Minister for his timely presentation of this piece of legislation [*Desk thumping*] which is so long overdue. As I said, over 100 nations were ahead of us. We have to play catch-up. Let us show that commitment by passing this piece of legislation to give our young persons, our sportspersons, not only the opportunity to participate and win fair and square, but to give them the opportunity to participate in an environment that is clean, and remember that what takes place in the sporting arena would automatically go over into other areas of life. If you want to have a drug-free society, you must have a clean sporting environment. I thank you. [*Desk thumping*]

**Sen. Terrence Deyalsingh:** Thank you, Madam Vice-President, for recognizing me and allowing me the opportunity to contribute on this piece of legislation. The title is so long, I will skip it 'cause my whole 45 minutes might pass, which might be a good thing, but we will refer to it familiarly as the anti-doping legislation.

**Sen. George:** He got enough exercise, so he sleeping now.

**Sen. T. Deyalsingh:** Madam Vice-President, we, as legislators, are being called upon today to examine a piece of legislation, which is tied up with morality, immorality and technology and the law is often, very often, reactive. The law typically, not typically, very often reacts to developments. If you look at the field of medicine, when we had the first heart transplant by Dr. Christiaan Barnard from South Africa, I believe, in 1966; then you had organ transplant legislation following medical breakthroughs. If we look at the use of technology to have nuclear armaments, nuclear bombs, then we had to pass non-proliferation treaties and so on; and if you will permit me just to mention two recent developments which as legislators—because that is what we are—as legislators we have to be concerned about the burdens that modern society places upon us.

For example, Madam Vice-President, there is the issue now of using a 3-D printer to make a plastic gun. You can now make a plastic gun which only has one metal part, which is the firing pin; and the US Congress now has to consider legislation to ban the use of 3-D printers which you and I could purchase; and the 3-D printers will give you slivers of plastic and when you put them one on top the other, you make a gun.

**5.30 p.m.**

The other striking piece of legislative burden that legislators would face—I am just doing this to set the scene for my debate—the recent freeing of three women in Colorado—

**Hon. Senator:** Cleveland.

**Sen. T. Deyalsingh:** Sorry—Cleveland, sorry—where one of them by DNA proof gave birth to a child of a captor rapist who captured her for 10 years, and now part of the debate that legislators are faced with is the issue of parental rights for a husband who was a rapist. So, I draw these four examples to show the national community the burden that we as legislators are faced with these days.

So, Madam Vice-President, we have a Bill which deals with anti-doping and I would just ask: of the four categories I just pointed out, to which category does this particular piece of legislation fit into? Does it fit into the medical field, the technology field, the plastic gun field or the field that deals with parental rights of rapists? It has to do, Madam Vice-President, with that inborn quality amongst human beings and that is to cheat. That is the immorality part, and here we have now law following immorality, and legislation is but one way to deal with it.

The hon. Minister, when he was piloting his Bill, spoke about the case in Spain but legislation, as far as anti-doping is concerned, is not the cure-all because in Spain they had anti-doping legislation, and he was still able to get away with it. So anti-doping legislation is not the cure-all to stop the proliferation of anti-doping measures.

You know, I often consider myself lucky, at age 55 going on 56, to have travelled the past era where you did not have TV—now you have the Internet—and you grew up with sporting heroes whose feats and deeds you could accept at face value. Nobody will question the Olympic medal won by Muhammad Ali then Cassius Clay in 1962; nobody would question Jesse Owens' jump in Mexico; nobody would question Nadia Comaneci or "Comanex". Some people pronounce it Comaneci—[*Interruption*] Jesse Owens was what?

**Hon. Senator:** Germany.

**Sen. T. Deyalsingh:** Germany, sorry—Berlin '36, sorry. Nobody would question Nadia Comaneci's feats, after whom my daughter is named; nobody would question Hasely Crawford's feats—

**Hon. Senator:** Montreal!

**Sen. T. Deyalsingh:** Nobody would question Paavo Nurmi's feats, that great runner from Finland, I believe, nobody; and nobody would question Rodney Wilkes' feat, nobody; but today because of immorality within our human system, until you are proven innocent, we now think that every athlete is possibly a cheat, and that is why we are here today.

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So we are being asked to support a piece of legislation which requires a three-fifths majority, Madam Vice-President. I want to echo Sen. Al Rawi's concern that the hon. Minister of Sport did not explain to us the Bill and its requirement. He mentioned it, but for a Bill that requires a three-fifths majority as stipulated in the Constitution in section 13(2)—and if you will permit me, this is under Part IV of the Constitution “Exceptions for Certain Legislation”.

What we are doing here is an exceptional piece of legislation because it is inconsistent with Parts IV and V of the Constitution and that speaks to a three-fifths vote, and that has to do with the seriousness of the legislation. And to be honest, neither the piloter of the Bill nor his first speaker, his first supporter, Sen. Moheni, regaled us with what it is in this Bill that requires a three-fifths majority, and that we need to know. You are asking us as legislators to take you on your word and just give you a three-fifths majority.

Added to that, we have no regulations, Madam Vice-President. [*Desk thumping*] That point was made. I would not go over that point, but it is a three-fifths majority Bill with no regulations. That is a serious omission on the part of the Government; a very serious omission.

**Sen. Hinds:** We have to draft it because we need a legislative agenda, according to the Prime Minister.

**Sen. T. Deyalsingh:** But Madam Vice-President, coming out of that, neither the piloter of the Bill nor his first supporter spoke about the policy measures behind the Bill, and I would like to delve into that if you would permit me. Very often states pass these pieces of legislation, not because they want to, but because they feel bullied by bigger countries or bigger organizations or because they want to comply with certain requirements. One of the reasons for Spain now looking at amending their 2003 Act which did not catch Dr. Fuentes is because Madrid wants to put in a bid for the 2020 Olympics, I believe, and that is the only reason. It is the only reason.

Madam Vice-President, if I go to the actual Bill—“and whereas it is necessary and expedient to give effect to the UNESCO International Convention”, and that is where I think I would refer now to the actual document, the UNESCO International Convention.

If you look, Madam Vice-President, at Article 3 of the convention—and this is to answer directly Sen. Moheni's point. Sen. Moheni is saying that this legislation is needed to bring it alive, but if you read Article 3 of the convention it says, if you permit me: “Means to achieve the purpose of the convention”—so look at it! There are various means to achieve the purpose of the convention. Yes, the Bill says it is necessary and expedient. We agree that it is necessary and it is expedient to give effect to the convention, but what does the convention say.



It says if you will permit me:

“In order to achieve the purpose of the Convention, States Parties undertake to:

- (a) Adopt appropriate measures at the national and international levels which are consistent with the principles of the Code”

It does not mention legislation. It says “measures”.

**Sen. Al-Rawi:** That is right.

**Sen. T. Deyalsingh:** “Article 4—Relationship of the Convention to the Code”, which talks about your method of commitment to the code. It says here:

“...States Parties commit themselves to the principles of the Code as the basis for the measures provided for in Article 5...”

And what does Article 5 say, Madam Vice-President? This, again, is to directly answer Sen. Moheni where he thinks that legislation is the only way to bring home these convention rights. I would prove to you, Madam Vice-President, legislation is but one of three ways that we can choose. [*Desk thumping*]

**Sen. Al-Rawi:** Tell them!

**Sen. T. Deyalsingh:** It says:

“Measures to achieve the objectives of the Convention

...Such measures may include”—one—“legislation”—which is what we are doing, two—“regulation”—which we have not considered and three—“policies or administrative practices.”

**Hon. Senator:** Ohooo! [*Desk thumping*]

**Sen. T. Deyalsingh:** So the convention gives you the option of legislation, regulation, policies or administrative practices to bring home the convention rights. You do not necessarily need legislation. Instead of wasting the Parliament’s time, we could have been debating the Act to give Tobago self-government.

**Sen. Hinds:** All that! [*Desk thumping*]

**Sen. T. Deyalsingh:** But that has gone through the window. [*Desk thumping*]  
Instead of wasting the Parliament’s time on this, we could have been debating the Insurance Bill or the Defence Bill.

**Sen. Al-Rawi:** Where the amendments to that?

**Sen. Hinds:** We should be debating the Bill today.

**Sen. T. Deyalsingh:** We could have been doing that.

**Sen. Al-Rawi:** The Prime Minister said that—

**Sen. T. Deyalsingh:** That is the legislative agenda.

**Sen. Al-Rawi:** Where the amendments to that?

**Sen. T. Deyalsingh:** But what are we doing here today when the convention gives you the option of one of three measures? We are not opposed to bringing home the convention rights. What we want is an explanation from the Minister or from somebody in Government, as to why they chose the legislative route as opposed to regulation or policies and administrative practices. That is all we are asking because the Parliament could have been better served by dealing with other more pressing pieces of legislation.

Madam Vice-President, I want to ask the hon. Minister, and if he would tell me in his wrap-up: has this Bill and its implications and the various choices I have now put out, have they been discussed with all the sporting organizations in Trinidad and Tobago? So maybe in his wrap-up he could tell us whether the Trinidad and Tobago Olympic Association, the NAAAS, the Trinidad and Tobago Football Federation, TTCB—Trinidad and Tobago Cricket Board—the swimmers association, the boxing association have been brought up to speed on what is required of them as associations and their members? Have they been consulted with so that the major players who are affected by this piece of legislation understand their rights, responsibilities and the penalties? [*Desk thumping*]

**Hon. Member:** That is right.

**Sen. T. Deyalsingh:** Madam Vice-President, based on what I have said, one, that the articles of the convention give us choices; two, that this Bill seriously offends sections 4 and 5 of the Constitution; it needs a three-fifths majority; and three, the fact that we are creating four new bodies that have no system of accountability built into them, I would like to suggest to the hon. Minister—yes, we need to bring the convention rights home. You would find no disagreement with me on that. What I would like to suggest is that in bringing home these convention rights, should we not take this Bill to a joint select because we have serious reservations here—

**Sen. Al-Rawi:** Let us work it out!

**Sen. T. Deyalsingh:**—which in the committee stage—when we let loose Sen. Al-Rawi in committee stage, we may not have enough time—

**Sen. Singh:** You make it sound like if he is a dog!

**Sen. T. Deyalsingh:**—we may not have enough time—[*Interruption*]

**Sen. Singh:** You only let loose dogs!

**Sen. T. Deyalsingh:**—to deal because there are serious amendments to be made. So the question is, would our sporting bodies, would the Minister of Sport be better served by taking a step back, reflecting on what the Opposition is saying, reflecting on the fact that we want to bring convention rights home, but we have concerns about the methodology [*Desk thumping*] of bringing home those rights.

**Sen. Al-Rawi:** Let us get it right together!

**Sen. T. Deyalsingh:** Yes. As we say here, let us get it right, total quality management, doing the right thing right the first time.

**Sen. Al-Rawi:** That is right!

**Sen. T. Deyalsingh:** Doing the right thing fast, first, right the first time. What are the challenges, Madam Vice-President? There is a report, Madam Vice-President, so I did not want to pretend I am making this all up on my own—and I will find the name in a short while—which I will refer to when I come to it. I will come to it, Madam Vice-President. It speaks to some of the challenges with which other countries are faced; not only us. So before we dive—no pun intended; Minister Anil Roberts is a former swimmer—headlong into this and hit our heads at the bottom of the pool, let us look at some of the challenges with which other jurisdictions are faced.

One: it has to do with the whole issue of harmonization. How do we harmonize anti-doping rules across borders? That is a serious concern because if these things are not properly harmonized, what you have is an opacity of rules and regulations and no one knows what they are doing. [*Desk thumping*] When you have cases that need to be adjudicated, guilty parties, what we are intending to do to bring them to book, we can fail because we are not harmonized.

Two: let us look at the anti-doping code—and that was only done initially for the Athens Olympics, I believe in 2000—and let us bring that home. And as the hon. Minister said, that is where the strict liability comes in. We have no issue with the strict liability aspect of it, and that is part of the exceptions for sections 4 and 5 of the Constitution. It matters not whether the athlete is innocent, guilty, took the substance intentionally or not. It is a strict liability offence. But, again, it has to be harmonized across borders.

If members of the public and the sporting bodies I spoke about, they may have concerns about the strict liability offence. They might say: why should our athletes be subject to a strict liability offence?" That has been dealt with by the Court of Arbitration for Sport in the case *Quigley v UIT*, where it was held that the strict liability imposition is legal.

So it goes back to the issue of the consultation with the boards. Have all these boards that I called out earlier—Olympic committee, boxing board, cricket, swimmers, rugby—have they been explained what strict liability means for them and their athletes? I do not know. The hon. Minister is well advised to tell them that the International Court of Arbitration has no problems with strict liability offences in anti-doping.

**5.45 p.m.**

Challenge No. 2 that many countries face is the need for sporting bodies to operate on a basis of fairness and observe due process. This has to do with, as we say in local parlance, "Ah ketch yuh; yuh do something." What process does that person go through? The hon. Minister spoke of two cases where the international court found one person guilty and one person innocent—who by all records should be guilty as hell. So we have to understand, and our local bodies have to understand, what is due process and how due process operates.

Our bodies, in order to do all this—to harmonize, to understand strict liability and to understand due process—will actually have to operate a system of arbitration akin to a criminal court, so that due process is observed. That goes to the education aspect of this piece of legislation. Have the sporting bodies been made aware of their duties, rights, responsibilities and, more importantly, the burdens placed upon them and their charges?

Madam Vice-President, I have indicated via the UNESCO Convention that we could bring home these rights by one of three methods. I just want to repeat them: law, administrative measures and policies, but the Government has chosen law. Our concern is that the two speakers to date who have spoken on the Bill have not explained to us the law. We have been regaled with anecdotal facts and figures and performances, fine. Sen. Moheni spoke about the value of sport, fine. But nobody to date—and I am hoping the third Government speaker will speak to the Bill, because if you want our support, we want to hear about the Bill.

Madam Vice-President, one of the other rationalization issues is how do countries who regard themselves as sovereign States bring home convention rights—and not all States do it via law. Article V talks about the obligation options, which I have gone through. It speaks about the athletes' potential constitutional protections, and Sen. Al-Rawi alluded to the fact that this piece of legislation has serious constitutional implications. That is why we need the three-fifths majority.

The public may be lulled into thinking that it is a Bill about sports. It is not a Bill about sports. It is not a Bill about running. It is not a Bill about cycling. This is a piece of legislation that allows the State to invade your body, take a blood sample, store it and keep it. And I will come very soon to the inter-articulation of this piece of legislation with the DNA legislation and the Data Protection Act.

How are we going to protect athletes, especially athletes under the age of 18, the age of majority, who are still under the roof of their parents, against unreasonable searches and seizures? That is what we need to see in the regulations, but we do not have the regulations. The regulations have not been presented to us, and this is a three-fifths Bill. I am sorry to harp on it, but it is a point that the public needs to be aware of. It needs a three-fifths majority. [*Desk thumping*]

What about protection of athletes against self-incrimination? No Government speaker has spoken about that, and the due process angle. I promised earlier to speak about a source of some of my information. I have it now. It is the *Marquette Sports Law Review, Volume 19, Issue 1*. I do commend that to the hon. Minister. I have a copy here, I would be happy to lend it to you. You have it?

**Hon. Roberts:** Long time.

**Sen. T. Deyalsingh:** This is where we come to the DNA legislation. This piece of legislation cannot and should not be seen in isolation. It is not a stand-alone piece of legislation because it articulates with the DNA legislation and the Data Protection Act. If we go to the DNA legislation, which was assented to on May 10, 2012, it had very vigorous debate. We debated about the keeping of DNA samples—how long? Question: Would an athlete who voluntarily gives his DNA, via blood sample, to a sport body, like the Trinidad and Tobago Anti-Doping Organisation, for that particular purpose, can that DNA find its way into the criminal justice system to determine whether that person has committed a crime or not? I think it is an issue we need to raise, put it out there for the public, let them decide.

The other piece of legislation that we need to be concerned about is the Data Protection Act. Minister Roberts spoke about he would like to have his piece of legislation fully proclaimed. This Data Protection Act is partially proclaimed—partially

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proclaimed. When you go to the Data Protection Act, it speaks about personal information means information about an identifiable individual that is recorded in any form, including information related to race, nationality or ethnic origin, and that could be a blood sample—out of a blood sample you could determine race or ethnic origin. You cannot determine marital status from a blood sample, luckily.

**Sen. Singh:** “Why you say that?” [*Laughter*]

**Sen. T. Deyalsingh:** If we go to Part III, which has not been proclaimed, protection of personal data by public bodies, question for the hon. Minister. The boards that he is setting up, are they public bodies? Under this Act I am sure they qualify as public bodies. Athletes need to know that when they give a DNA sample to a sporting body, they fall under the Data Protection Act. I am just saying, all the sporting bodies need to know this. Have the sporting bodies been so advised?

Madam Vice-President, the same Data Protection Act, section 35— [*Interruption*] I will just give you a minute to hand over to the President.

**Sen. Hinds:** Very polite of you, Senator.

[MR. PRESIDENT *in the Chair*]

**Sen. T. Deyalsingh:** Mr. President, just for your information, no Standing Orders have been raised against me thus far. I hope to continue in the same vein.

**Sen. Singh:** Keeping the straight and narrow path.

**Sen. T. Deyalsingh:** Section 35 says:

“A public body shall protect personal information in its custody or under its control by making reasonable security arrangements against... risks...”—et cetera, et cetera.

So sporting bodies, who will be public bodies—and these bodies have been set up under this Act—need to understand their duties, roles and responsibilities. So this piece of legislation articulates directly with the DNA Act and the Data Protection Act. [*Interruption*] I will come to that.

Mr. President, we had raised earlier, and I did en passant, and I will dwell on it now: you have athletes in training who are under the age of majority, under the age of 18 years, still considered children. What is the position of a sporting body, either the bodies I have called out or those to be given life under the Act, who take a DNA sample of one of these kids without their parents’ approval? Not only that, there is a whole body of writing about the rights and responsibilities of

bodies, to children. Again, the third piece of legislation that this Act may dovetail with is the yet unproclaimed Children Act. So what are we doing with this piece of legislation as far as it articulates with the Children Act now, the DNA Act and the Data Protection Act?

Mr. President, please allow me now to go into how various jurisdictions have treated with the issue of bringing home the UNESCO Convention rights. While you were away, I pointed that UNESCO recommends one of three measures: legislation, policies or regulations. Various jurisdictions use different methods.

I alluded to the fact earlier that Spain was considering updating their 2003 Act mainly because Madrid wants to make a bid for the 2020 Olympics. But let us look at the recent 2012 Olympics. London did not pass an Act. They were able to bring home UNESCO's rights to the UK without legislation. How did they do that? They have a system where the anti-doping rules of England support the requirements of WADA. So the question is: Why legislation and not this route that the United Kingdom has gone?

What the UK has done is use some of their existing Acts: their Misuse of Drugs Act, their Medicines Act, information sharing with organizations such as Serious Organized Crime Agency, SOCA; UK Border Agency, UKBA; Medicines and Healthcare Products Regulatory Agency; and they have also done it via inter-articulation with their Data Protection Act—which I have just spoken about—and their POCA legislation, the Proceeds of Crime Act, which I have just spoken of. So the question is: have we looked at the alternative to legislation?

Let us look at the United States, USADA, United States Anti-Doping Agency. They are a signatory to WADA, but their organization, which is a nonprofit organization recognized by Congress, undertakes compliance with WADA. The only reason that they even went further was for Chicago to make a bid for the 2016 Olympics, which they failed at, and they have dropped the issue. the USDA and the NADA control all the anti-doping programmes. We have similar bodies here that we could set up without legislation. They control anti-doping for the US Olympic teams, the US Paralympics, the Pan Am team and the Paralympics Pan Am team. They do their testing both in and out of competition.

Let us look at Canada. Canada has no specific legislation to deal with it, but we always look to Canada as one of the beacons of legislative reform, legislative rigour.

**6.00 p.m.**

It says here that: "...all parties and organizations"—sorry, if you will permit me, "in Canada our national effort to eliminate doping from sport is not directed by specific legislation." It is not.

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So to answer Sen. Moheni, you do not need specific legislation. And let me reiterate: We on this side wish to bring the UNESCO Convention home. Our only question is: why have you chosen this method? Did you consider the other methods? So what Canada says:

“Rather all parties and organizations committed to the Canadian anti-doping effort have collectively agreed to abide by a common set of rules, procedures, duties and responsibilities.”

That is an option that UNESCO gives you.

**Sen. Singh:** That is the country of Ben Johnson.

**Hon. Senator:** Yeah.

**Sen. T. Deyalsingh:** Your point? Germany, [*Crosstalk*] another sport powerhouse, and this is what you might call the former West Germany, now Germany. They again do not have specific legislation because they had serious constitutional concerns about it. So it says here, if you would permit me:

“Since the WADA code could not be directly transposed into German law, the NADA—a foundation under private law”—similar to the US ADA, a foundation under private law—“had to create the NADA Code in line with international”—regulations.

So there are other options. Sen. Al-Rawi spoke at length about the Caricom position—so I would not go into that—which Barbados adheres to, but I understand that maybe Barbados may be considering the legislative route, and I will come to that in a minute.

Let us go to Australia, another sports mad country. I know Sen. Ganga Singh has this aversion to going down under.

**Sen. Singh:** Sen. Al-Rawi went down under to look for a precedent.

**Sen. T. Deyalsingh:** Right. But, Mr. President, notwithstanding Sen. Ganga Singh’s aversion to Australian law and Australian precedent, one has to admit that the Commonwealth, even London, the mother of the Commonwealth, our mother country, looks to Australia and New Zealand—[*Interruption*]

**Sen. Al-Rawi:** That is right.

**Sen. T. Deyalsingh:**—as primary sources of law. Australia and New Zealand are considered to be some of the best jurisdictions for legislation and the application of the common law, not only in the Commonwealth, but in the world.



When you read US Supreme Court decisions they will refer generously to what happens in Australia and New Zealand, and one of the reasons why Australia is a rich source of law, like the United States, they have their federal system. So they have all their different states and territories tangling with the law, like New South Wales—that area is considered to be a rich source of law. So when Sen. Al-Rawi refers to the Australian Act, he knows why.

**Sen. Hinds:** With good reason.

**Sen. T. Deyalsingh:** He knows why. It is a brilliant source of law and I recommend it to Sen. Ganga Singh.

**Sen. Hinds:** And it is to assist the Government.

**Sen. T. Deyalsingh:** Now Australia, Madam—sorry, Mr. President, did actually go the route of legislation by their Australian Sports Anti-Doping Act 2006, [*Crosstalk*] but what the Act does it sets up an organization. And that is why Sen. Al-Rawi and myself commend the Australian position to the Government to look at in a joint select committee—[*Interruption*]

**Sen. Al-Rawi:** That is right.

**Sen. T. Deyalsingh:** It is a rich source of law. They are a First World country. They are a good country to benchmark ourselves against, and we commend it.

Jamaica, in fact, does have legislation to deal with doping, but look at it. Jamaica has it; Trinidad has it. I made the point earlier, Mr. President: are we as small countries only expected to do these things via legislation, when some of the bigger countries themselves do not do it via legislation? And we saw this with the Financial Institutions Act. These big countries expect us to jump through their hoops when the UNESCO Convention gives us the option of legislation, policies or administrative rules, and no one from the Government side as yet to date has explained to our satisfaction on this side why we have chosen the legislative route with all its constitutional problems. That is why we need a three-fifths majority with no regulations, and not the administrative route or the policy route.

**Sen. Al-Rawi:** That is right.

**Sen. T. Deyalsingh:** That is the question. So, Mr. President— [*Interruption*]

**Sen. Al-Rawi:** The Jamaican structure is different.

**Sen. T. Deyalsingh:**—we have no problem in supporting the policy of bringing home the UNESCO Convention rights. I want to reiterate that because somebody is going to go on a UNC platform and say the PNM objecting.

**Sen. Al-Rawi:** We are complying—[*Interruption*]

**Sen. T. Deyalsingh:** We have no problems with bringing home the UNESCO Convention rights to Trinidad and Tobago. What we have not been treated to in this Parliament is why choose legislation which requires a three-fifths majority? Why we are wasting Parliament's time when we could be debating the Tobago self-rule piece of legislation, the Insurance Act, the Defence Bill. That is the legislative agenda we should be focusing on! [*Desk thumping*] That is what we should be focusing on! [*Desk thumping*]

If the hon. Prime Minister wants a legislative agenda, there it is. [*Crosstalk*] Tobago, Insurance Bill, bring it. [*Crosstalk*] So, Mr. President, [*Crosstalk*] I recommend to the Government—[*Interruption*]

**Hon. Senator:** Fire everybody.

**Sen. T. Deyalsingh:**—please do not go on a platform and say we are not supporting the Bill. We support the objectives of bringing home the legislation.

**Sen. Al-Rawi:** You have to do your homework.

**Sen. T. Deyalsingh:** What we take exception to is a piece of legislation that requires a three-fifths majority, and we have not been told, we have not been regaled with even an explanation of one clause of the Bill. Not even a definition has been explained to us.

**Sen. Al-Rawi:** That is landmark.

**Sen. T. Deyalsingh:** Not a clause, not a definition, not a section has been explained to us, and you want our support to take away rights under sections 4 and 5 of the Constitution. Mr. President, as I close I hope the third speaker on the Government's side—[*Interruption*]

**Sen. Al-Rawi:** Knows something. Read the Bill.

**Sen. T. Deyalsingh:**—please explain to us the Bill, explain to us the rationale of the Bill so that we can support it. With those few words, I thank you.

**Mr. President:** Sen. Ramkissoon.

**Sen. Prof. Harold Ramkissoon:** Mr. President, thank you very much. As it has been my tradition in the past, I want to extend a warm welcome to the first timers, the hon. Minister of Sport for piloting his first Bill here in the Senate—[*Interruption*]

**Hon. Senator:** He did a good job.

**Sen. Prof. R. Ramkissoon:**—and for Miss Patricia—is it Herry for making her first appearance in the Senate.

**Hon. Senator:** Yes man.

**Sen. Prof. R. Ramkissoon:** Mr. President, I rise to make a brief contribution to this Bill which seeks to establish, what I call, a super edifice to deal with doping in sports.

Let me start off by saying that doping is as old as competitive sports which started I think in 776 BC in Olympia in Greece. So, Mr. President, the Greeks gave us the Olympic games. The Greeks gave us democracy. The Greeks gave us the great philosophers Aristotle and Plato, and let us not forget, the Greeks gave us the theatre. Interestingly enough on the curriculum for the youths in the Greek civilization they had to do sports, they had to do music and they had to do philosophy. Great was the Greek civilization. [*Crosstalk*]

**Sen. Hinds:** You learnt a lot in Africa.

**Sen. Prof. R. Ramkissoon:** Let me continue. [*Laughter*] As I said, doping is as old as competitive sports, and someone did give a brief history of doping. It started with the Greeks themselves using stimulating potions. Then in the 19th Century the cyclist, as you heard earlier, used caffeine, cocaine and alcohol. Then in the 1950s the real drugs started coming in, synthetic hormones were used. In fact, one cyclist, a Danish cyclist died in the 1990 Rome Olympics because of such drugs, the intake of such drugs. Then in the 1970s and the 1980s we had the prevalence of anabolic steroids.

The famous, or infamous Ben Johnson tested positive at the 1988 Seoul Games. It is reported that almost all the finalists in that race took prohibited or banned substances. More recently we have had the cases of the cyclist Lance Armstrong and lawn tennis player Martina Hingis.

Mr. President, it became evident since the early 1920s that something had to be done to arrest drug abuse with respect to sports. Growing concerns over the years and the call for action from the international community led in 2004—I think it was 2005—to the International Convention against Doping in Sport. And we have heard a lot about this convention.

It was adopted in 2005, and two years later in 2007 it was adopted and embraced by, I think, over 172 countries. It was the second most ratified treaty in UNESCO history. This popularity, I think, reflects the growing concern about doping in the sporting industry.

I should mention that since the ratification three countries in the Caribbean—it is my understanding that Barbados, Bermuda and Jamaica have enacted legislation. I stand to be corrected.

**Hon. Senator:** You are right.

**Sen. Prof. R. Ramkissoon:** So there are three countries and Trinidad is the fourth country moving in that direction. Through this Bill, Mr. President, we hope to enact legislation that would enable us to bring in force the international convention on anti-doping in sports.

Given, Mr. President, our performances, outstanding performances, I should say—and the Minister of Sport talked about some of these outstanding performances—the country needs no less. We need to be truly a member of the international sporting fraternity.

**Sen. Hinds:** Yes. We can agree with that.

**Sen. Prof. R. Ramkissoon:** Before going to the Bill I want to briefly talk about this convention because this Bill revolves around the convention. What are the objectives of this convention? Well, let me quote from their website, the main objectives of this convention:

One, to promote the prevention of and the fight against doping in sports.

Second, to help formalize global anti-doping rules, policies and guidelines in order to provide an honest and equitable playing field for all athletes.

Thirdly, to help ensure effectiveness of the world anti-doping code.

And I am going to come to that.

Mr. President, let me now turn to the Bill. Let me first say that this is a readable Bill, one of the more readable Bills that I have read in this Senate. It is a readable Bill. At the heart of this Bill though, as I see it, is a board and four committees. This is at the heart of the Bill, and it worries me a bit, the associated bureaucracy and the cost to taxpayers.

**6.15 p.m.**

Let me briefly talk about the Board and these four committees. I go now, Mr. President, to clause 8 in the Bill: the Trinidad and Tobago Anti-Doping Organisation shall be managed by a board. The Board shall comprise a chairman, a vice-chairman and not less than five nor more than 11 other members, all of whom shall be appointed by the President on the advice of the Minister, from among the

following persons, and it gives you a list of persons and their qualifications. For example: a person who has qualification or experience in sports medicine or pharmacology". I am happy with the composition of the Board, the pool and the expertise, the wide expertise it requires.

I now move on to the first committee and I go on to, I think it is clause 17: The Trinidad and Tobago Anti-Doping Organisation shall establish a therapeutic use exemption committee comprising three medical practitioners with at least five years experience, one of whom should have qualifications in pharmacology, and it shall perform a number of functions, one of which is the receiving and examination of applications from athletes for therapeutic use exemptions made in accordance with section 20. My only concern with this committee is that you only have three persons and there is no pool from which to draw, and my recommendation is maybe you would want to extend it to a pool three out of five, to give you more flexibility to start with.

Then I move on. So, that is the first committee and I move on to clause 19, and we go to the second committee. Again, the Trinidad and Tobago Anti-Doping Organisation—which is the umbrella body, the powerful body, it will oversee things—shall establish a results management committee comprising at least three but not more than five persons among whom shall be two medical practitioners, one attorney preferably with experience in anti-doping matters. Again, I am happy with that, there is a pool between three and five.

Now, Mr. President, I want to move on to the next committee and that takes us to clause 27. This is, I think, the third committee. There is established a disciplinary panel to be known as the Trinidad and Tobago Anti-Doping Disciplinary Panel, and this shall comprise nine members appointed by the President on the advice of Ministers, and I think for a quorum you need three out of nine. So, again, I am happy with the composition of that committee. We move on to the last one, the last committee which is given on—where is it now?

**Hon. Roberts:** Thirty-one.

**Sen. Prof. H. Ramkissoon:** Thirty?

**Hon. Roberts:** Thirty-one to 32.

**Sen. Prof. H. Ramkissoon:** Thirty-one/thirty-two, Mr. President and that is the last committee. There is established an appeals panel to be known as the Trinidad and Tobago Anti-Doping Appeal Panel. The appeal panel shall comprise seven members appointed by the President on the advice of the Minister as follows, and there you have the description of the seven people that you need, and that remains fixed. If someone is absent it gives the President the right to come up with a replacement. So, again, I have no problem with that panel.

*Anti-Doping in Sport Bill, 2013*  
[SEN. PROF. RAMKISSOON]

*Tuesday, May 14, 2013*

So, we have one board and four committees, and again my concern is that that is going to lead probably to too much bureaucracy and that worries me, and the question is: can we combine two of those committees? For example, can we combine the appeal panel with the results committee, the one that examines the results? That is just one suggestion, it may not be possible but I think we have too many committees that are being spawned by this Bill.

Mr. President, some addition—

**Sen. Singh:** Would you give way?

**Sen. Prof. H. Ramkissoon:** Sure.

#### PROCEDURAL MOTION

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of the business at hand.

*Question put and agreed to.*

#### ANTI-DOPING IN SPORT BILL, 2013

**Sen. Prof. H. Ramkissoon:** Thank you, Mr. President; some other questions. Mr. President, who will be the persons to oversee the testing? Is this the doping control officers? These people play a most important role. They have to make sure that the sample is not contaminated or interfered with, so we have to make sure that these are people of some integrity. What is the cost of the testing kit? I would like to know the cost of a testing kit. What is the pool of our athletes in Trinidad and Tobago?

According to WADA, these testing kits must be sent to a WADA accredited laboratory and WADA has given a list of countries where they have laboratories, and I think the closest one to us is Cuba; there is one in Colombia; and there is one in Canada. So, the question is, which of these labs are we going to be utilizing and the cost per kit? And the question, given the fact that we have, to me, what seems to be a critical mass of athletes in the Caribbean including all our Caricom countries, would it be feasible to set up a laboratory for the entire region? That is the question. If we are going to do that we can get the regional university, UWI, to play a lead role. Now I should mention that in Jamaica—and I am sure that the Minister is very familiar with what is going on in Jamaica—I was told that there is a close collaboration between the Mona Campus and the sporting body.

**Hon. Roberts:** Yes.

**Sen. Prof. H. Ramkissoon:** And, in fact, there is some research about to take place or has started with respect to analyzing the so-called local foods that our local athletes in Jamaica consume and people claim have certain properties. So you could also do local research. So, I think we need to explore the possibility of having some Caribbean body for research and also to do the anti-doping testing, if it is feasible and economical to so do.

Mr. President, I now turn to clause 23(1)(a) and (b), Mr. President, let me read the clause so we will know really what it is saying:

“A national-level athlete and an international-level athlete in the Registered Testing Pool of TTADO shall, before the beginning of each quarter, submit to TTADO on such form as TTADO may approve, a quarterly whereabouts filing that provides accurate and complete information about the whereabouts of the athlete during that quarter, including information specifying—

- (a) where he will, on a daily basis, be living, training and competing during that quarter so that he can be located for testing at any time during that quarter; and
- (b) for each day”—it continues—“in that quarter, one hour when he will be”—testing—“at a specified location for testing.”

And it goes on. Number (2):

“Where any change in circumstances requires the updating of information in the quarterly whereabouts filing of an athlete, the athlete shall update the information as soon as possible and in any event prior to the next one-hour period specified in filing under subsection (1)(b).”

The point I want to make, Mr. President, is that this seems to be a slight invasion of one’s privacy.

**Hon. Roberts:** It is.

**Sen. Prof. H. Ramkissoon:** It is; okay. And the question is the following: if the athletes think that this is justifiable, if they think it is appropriate, and if they think it is an objective measure then I do not have a problem with this, and I imagine, hon. Minister, you did have some feedback from the athletes in the athletic bodies in Trinidad and Tobago? But this is an invasion of one’s privacy.

[Hon. Roberts *Nods head*]

**Sen. Prof. H. Ramkissoon:** Mr. President, I want to touch on an aspect that Sen. Dr. Wheeler spoke on: the question of education; and I agree completely with Dr. Wheeler. If this Bill becomes law it is important to educate our athletes, in fact, all stakeholders of the various aspects of this Bill. To me, it is the key to promoting anti-doping.

Mr. President, I want to read from an article from UNESCO website—“Anti-doping: 13 new projects supported in the field”, and it goes on and talks about 13 projects that are going to be funded by UNESCO. This is an article dated Monday, April 08, 2013, so it is relatively recent. And they talked about 13 projects that are going to be funded in this anti-doping scheme: anti-doping education for Barbados; empowering athletes through anti-doping education, St. Lucia; upgrading and raising awareness of anti-doping, Aruba; building awareness and advocacy to eliminate doping in sport, Dominica; and the Regional Project—leveling the playing field in the secondary school sector, Barbados. So this, I think, emphasizes the importance of education in the anti-doping scheme of things.

So, Mr. President, let me repeat. The most effective way of dealing with doping is through educational programmes. Mr. Minister, I hope you would access some of the funding that is made available by UNESCO and mount some educational programmes in Trinidad and Tobago.

Mr. President, it is the dream of every athlete to win a medal, particularly at the Olympics and particularly a gold medal. It is this dream that sometimes pushes them beyond the boundary of ethical behaviour. This Bill will not eliminate that, but hopefully will minimize the number of offenders. There will always be new substances, new drugs; there will always be new techniques to beat the system; and, of course, there will always be new sophisticated, scientific methods to deal with these problems, including genomic testing which is DNA testing. What, hopefully, this Bill, if it becomes law will do—it will send a message to our athletes that as far as Trinidad and Tobago is concerned, there is zero tolerance with respect to doping in the country. [*Desk thumping*]

But it goes beyond that, Mr. President. It goes beyond that. What will this Bill do? It goes beyond that. The Bill will protect our athletes; it will protect our national image and by extension our intellectual property.

I thank you most kindly, Mr. President. [*Desk thumping*]

**Sen. Corinne Baptiste-Mc Knight:** I thank you, Mr. President, for allowing me to participate in this debate.



Let me start by welcoming the newcomers to our Senate and saying that I support the intention of this Bill. The advantage of coming late in the debate is that many of the points that I would have had to make have already been made, but there are a few areas that I still have some concern about, and given the time I will address myself straight to the Bill. I want to start with clause 7(2) where it spells out the functions of TTADO.

The functions as itemized here appear to capture most everything, but given where we are and where this Bill is supposed to take us, I would have been happier to see some more specific reference in terms of the functions of TTADO to initiating research in areas that were just mentioned by the last speaker into properties of the foods that we eat, the folk remedies, particularly, that parents and guardians give to children.

**6.30 p.m.**

I am thinking of things like, for a bad cold you used to get a “locke”. And there are still areas where this is done. Now, what are the chemical properties of a “locke” that make it work? There is a possibility that some one of those elements might in fact translate to something that is on the banned list from WADA. Nobody is in a position to blame the guardian that has given the child this, because they have given their children this through the years to help with a cold. But we as adults know of the existence of these things. So, I think that it ought to be one of the functions of TTADO to do this kind of research as has been said in conjunction with the universities. We have both UTT which is the practical hands-on university and the academic UWI. Between them, I think they ought to be involved in something like this.

In addition, I think that part of the function of TTADO should literally be encouraging the establishment of a local testing facility that would be WADA approved. I do not think that we have reached this far, and encouraging our athletes to go further, and at each point that they have to be tested, we have to have a whole elaborate and expensive protocol to collect the sample, to make sure that it is properly packaged to send abroad, and then have everybody in suspense waiting for this result to come back. No, I do not think that we could be that far off from being able to have a facility. After all, we have a government chemist facility here. I can understand that, as it exists, it is currently not able to test some of the drugs that we get in and buy under CDAP, but it is our fault that we have not sought to bring it up to the required standard. Why do we not think in terms of doing that?

I notice here—and I will just jump to this for a moment—where we talked about the TUEC. We have doctors. I feel that on that particular agency there should be a representative of the government chemist lab. The government chemist or his representative should be a part of that particular body.

Coming back to the functions of TTADO, I noticed that TTADO is going to be allowed to impose fees for provision of information—advice or other services—requested other than information relating to an athlete or requested by an athlete.

Now, I am not sure exactly what type of services TTADO would be required to deliver that would need to attract a charge, because I do not see who but TTADO is going to pay for the drug tests that are taken. You can hardly ask the particular sporting body to pay for that when it is a requirement of TTADO. So I think we ought to look at that a little more carefully.

Subclauses (i) and (j), that is 7(2), I think they are meant to capture anything that was left out. But there are areas as I said before that could usefully be specified. I want to go to clause 8(2) where the Board is set out. I note that these three boards—the TTADO Board, the Appeal Panel and the Anti-Doping Disciplinary Panel—are all to be appointed by the President on the advice of the Minister.

Now, I am totally in disagreement with this. I feel that a certain number of the Board should be on the advice of the Minister and the rest of it at the discretion of the President. When all of these agencies are selected by the Minister, I think there is an element of ownership there that might be deleterious to the functioning, the proper functioning of the Board. And I go on to subclause 3, and I wonder whether the intention really is that the President shall determine the terms and conditions of the members of these three boards. I cannot recall another instance in which the President is required to perform this particular function. I just do not see it. When I questioned, I was referred to the Interpretation Act, Chap: 3:01, but here it says specifically, that:

80. (1)(a) “a reference to ‘the President’ (however expressed) shall be construed as a reference to the President of Trinidad and Tobago for the time being.”

So, it means that this is a function that is being given to the President, and I feel pretty sure that his present establishment does not include on his staff, people who would be able to do this. So that, I think that, this definitely has to be revised.

Clause 8(5), where it talks about the length of the period of office. It says:

“...not exceeding four years and shall be eligible for reappointment.”

Given the type of functions that would be required by this Board, the type of personnel to be on the Board, and knowing, that especially in the specialist field of sports there might not be that large a pool of people to call on, I am suggesting that the initial period be longer than four years and you can do reappointment if you like. But if you made this more like seven to eight years it would make sense because it would mean that some of the younger members of the Board would develop expertise over the period.

Now, I notice at clause 10 that again among the functions of the Board is to ensure that correct protocols are followed in the process of securing samples. Now I wonder, how does the Board get involved in not adopting the protocols, but ensuring that they are followed. Now this is a board that is going to meet once a month. Now, how can someone who is invited to accept a position that requires one day a month to be expected to ensure that the correct protocols are followed, and in a situation where the duties of the members of boards are now being looked at more stringently, and they can find themselves with—what it is called, a pre-action protocol letter—

**Hon. Senator:** Yes.

**Sen. C. Baptiste-Mc Knight:**—at a certain point, if the—

**Sen. Hinds:** Anand Ramlogan special.

**Sen. C. Baptiste-Mc Knight:**—if they are found to be wanting? So that I think we need to have another look at that.

The funding at clause 13, the funding for the Board, among the areas of revenue, again we see fees to be charged for the provision of its services. Now the fashion in which this appears here leads me to believe that it is expected that this would be a substantial source of funding. I really just do not see it, so that I would be happy to have a little explanation of how exactly this is supposed to pan out. And the whole matter of funding of this organization needs to be very carefully thought out because most of its expenditures are going to be in foreign currency, and given the flow of government funding, we could find ourselves with that Board in some serious trouble.

At clause 17, as I said earlier, I think that on this committee a member of staff of the government chemist should be included, because at least in that department they ought to have some sort of expertise in this matter.

Now, moving on to clause 19, the Results Management Committee, I am a bit concerned here. I do not know whether in order to qualify for membership of this committee, prospective members should already possess training in dealing appropriately with the results of doping control procedures. I do not know how large a pool of people would be available with this type of expertise.

Now, if the expertise is necessary before they can get on to the Board, it means that the time to train them might make it difficult to put this whole thing into operation, so that it would be helpful if I could have an explanation as to whether the idea is that priority will be given to training the people who would be involved in this exercise.

I want to move on to clause 24 where it talks about the sample. Clause 24 (1) says that:

“A sample taken...shall be analysed...”—for—“prohibited substances...”

And then in (2), it says that:

“A sample may...be used to assist TTADO...”—for another purpose.

I really do think that clause 24(2) should really be a subset of 24(3). [*Desk thumping*] I think that once the sample is to be used for anything else it must be done with the written consent of the person whose sample it is. [*Desk thumping*]

**6.45 p.m.**

Now, this is not saying that I do not understand that it is essential in order to establish, sort of, your data bank, that you would need to have access to these samples, but I think it must be done with the consent of the owner.

Clause 25, I find interesting. TTADO shall recognize the results of laboratory analysis by other anti-doping organisations, if the analysis was conducted in accordance with the international standards, et cetera, how will TTADO establish that the analysis was conducted in accordance with these international standards? I would like to know what thought process went into establishing that clause.

In the anti-doping—ooh, let me back up a bit. The management committee and the TUEC, do I understand that these are committees of the Board, or is the Board being given the authority to co-opt members to form these committees? Now, I do not understand how a board can be given this wide authority to co-opt doctors, because in the case of the results committee, it is going to be sports personnel who would have to be trained. In the case of TUEC, we are talking about specialist doctors—a pharmacologist and, well, the government chemist is a public servant. Under what conditions would they be able to co-opt these people? Are they going to be volunteers? No, that is not at all acceptable—at all. I mean at least somebody in the Ministry, the Minister, somebody, must have a final say on this. It cannot be just the chairman of the Board—after all.

I just want to make sure, I just want to—my final area of concern with this, seeing as has been said before, that we have no idea of what the regulations would look like. I understand, I accept and I agree that the primary purpose of this is to bring us into accord with the conventions to which we are a party. But, when I look at this legislation, and I realize all of the areas that are necessary—some of which are almost non-existent—that are required in order to make this operational I am wondering, one, what is the time frame for operationalizing this. And, in fact, are we doing it to satisfy the public opinion out there that Trinidad and Tobago is conforming? But, we are paying lip service because we are not really ready to conform. How soon would we be ready to hit the ground running with this?

I think it is very important because in the recent past we are acquiring a reputation for “making as if”. We are doing things to appear to be on the right path, but we are really not, because it just sits there on the books. It sits there and it cannot be proclaimed or it sits there and it is partially proclaimed. I would hate us to be getting into that scenario with this particular Bill, so I would like to be comforted and know what is the time frame for us really getting this together. Do we intend to get it together in a format that is going to propel our sports forward?

We cannot be talking about sports tourism in a day and age when anti-doping and testing is the norm and not be en route or have a time frame for establishing a facility here that would allow athletes who come down from wherever in the world they come to train here to be tested here, and know their status before they get back home. These are just the few points I wanted to make on this Bill. I thank you, Mr. President. [*Desk thumping*]

**Sen. Elton Prescott SC:** Thank you very much, Mr. President, for permitting me to enter this debate at this stage. I had intended a long time ago to participate in this because I have been engaged in sport administration for quite a lengthy period and more recently on the Trinidad and Tobago Olympic Committee, which as most people know is the premier sport administration body in the country—well respected through many years of service and which gathers under its umbrella all of the sporting bodies which are affiliated to international bodies that govern sports. So that there are a substantial number of our athletes and sportspersons, administrators, as well as technical people, who are gathered within that fold and the relevance of that would become more apparent later on.

I do not propose to be lengthy because I anticipate that the committee stage will require some mental athletics and agility, both on the part of the proposer of the Bill and those who wish to see it improved, among whom I wish to include myself.

But, I am supportive of the idea of legislation to establish the Trinidad and Tobago Anti-Doping Organization because it is required of us by WADA and indeed for many years we have been pushing at getting the relevant organizations to take control of anti-doping within the region and in each country which takes part in international sport.

We, Trinidad and Tobago, are among the leaders in the Caribbean and that is now legend. Everybody is aware of it. We have another opportunity by this Bill to demonstrate leadership, hence I congratulate those who have brought it to this point, and I say that unreservedly. But, and I always have a but, the penchant that we continue to exhibit, for a sort of poly-regulation of every activity within the society, continues to irk a lot of people, including me.

*Anti-Doping in Sport Bill, 2013*  
[SEN. PRESCOTT SC]

*Tuesday, May 14, 2013*

This Bill manifests that leaning towards poly-regulation and I heard a few speakers who would have already contributed and I am detecting that there are others who are saying, do we need all of this Government interference in our social lives? The question is well justified. We do not need it.

The hon. Minister has come from a sporting body and has been as vocal as I can remember, against others interfering in his sport and the same goes for almost every sporting body.

The International Olympic Committee in its charter and in its constitution abhors the involvement of governments in the administration of sport. It filters down through all of the Olympic committees that are members. The National Olympic Committee of Trinidad and Tobago is no exception to that. We are very much inclined to saying, permit us to be autonomous. I use the word “permit” deliberately because it is a fact that for much of the activities that surround sport, there is need to turn to governments to obtain some kind of financing or other support, even human resource support.

So, once there is “permits autonomy”—in short, you may well be a sponsor, or a facilitator, you may well wish to keep your eye on and monitor the activities of a body to whom you extend funding, but you do not need to hold the hands of those who are leaders of it, and take them in directions which they may not necessarily want to go to. There are times when they may wish to go there. So, I want to start there.

If we look at the legislation, we find throughout this leaning towards regulation, which I am hoping to be able to persuade the Minister by the end of tonight’s debate, we do not necessarily—sorry, we do not need. [*Desk thumping*]

In clause 8 of the Bill—and I am certain that those who spoke before me have all gone through that route. TTADO, having been established—pardon me while I search for clause 8. Yes, in clause 7 TTADO is established and then a series of functions is set out in subclause (2), so that the Trinidad and Tobago Anti-Doping Organisation plans, implements and directs the national anti-doping programme. It facilitates the sharing of information; it enters into reciprocal testing agreements; it consults with government departments and agencies, the local Trinidad and Tobago Olympic Committee, of course; it initiates and supports rehabilitation programmes for athletes. It generally takes all steps necessary or expedient to achieve the purposes of this Act.

But who are the persons who will populate the organization, and the answer is to be found in clause 8. It shall be managed by a board, shall comprise a chairman, vice-chairman and not less than five, no more than 11 other members, all of whom shall be appointed by the President on the advice of the Minister. It may have been said many times here before that the use of that phrase tells us that Cabinet determines who shall become the members of the body.

Now, I would have thought it quite easy for a body such as the National Olympic Committee to either name the authority, if you like, name the Board, or to have some substantial part in its naming. (A), because it comes from a position of knowledge of sport—sport administration and of those who participate. It has connections, direct connections, with all of the countries who are engaging in sport. It is a global linkage if you like. And therefore it can tap into the resources of a great many people.

**7.00 p.m.**

When it is left to a Minister who has had no affinity with sport—and we have had those—to come up with a list of—how many?—10, 11 members from varying fields, is he likely to name an attorney-at-law who has had something to do with sport or to go with his legal training, after five years of course. Is the marketing qualification in the person who is to be chosen, does it necessarily have any affinity toward sport? We know that in the operation of the Act, we may well find that a Minister leans towards a selection after having taken advice from bodies such as the National Olympic Committee, but the Act does not require him or her to do that.

So, Minister, I am thinking that you ought to be looking at how can I make this more palatable so that others who may have had greater experience and wisdom about sport than your successor—five years from now or two years from now, whenever it is—or any successor who comes to that Ministry and finds that he has all this power to create this body of men and women, and need not know anything about sport, the culture of sporting people and simply imposes his or her will on us.

Remember, that TTADO is the body to whom the athlete must give information about his whereabouts, and therefore it is already in a position to interfere with people's lives in a very serious way. Not that an athlete should be inclined to shelter himself away from testing—we need to encourage them to do so—it can be achieved, it can be achieved by proper education. But, you see, clause 37 of the Bill also says that the Minister may withhold support from national sporting organizations who are not complying, in the mind of the Minister. He may also withhold support—I think that is correct—to athletes who do not comply with the whereabouts requisition, telling us where they are at fixed times, et cetera.

So, the Minister establishes the governing body and then determines which of those persons, over whom it has control, are going to be punished and how. And to an athlete, one of the greatest punishments that you can impose is not to fund his training or his participation in international events. Someone said it just before me. [*Crosstalk*] Most of what an athlete wants to achieve includes participation at the highest level and at the best of his ability.

The fact that some removed, some distant body, who has the purse strings may say to him or her at the last moment, “I am not going to permit your name to go forward, I am not going to provide you with financial support because you have fallen afoul of the law” and that is the law regarding anti-doping. Not that you have been found doping, but that you have not been able to comply with the eligibility rules or the whereabouts requirements. It is too invidious and too burdensome an obligation on the part of the Minister. So that when we get into committee, I will be seeking to persuade the Minister to look again at whether we need to impose such responsibilities on him in order to make this work.

In clause 22, apropos of the same point that I am making—if I may invite your attention to it—there is a provision with respect to the responsibility of athletes’ support personnel that they should be knowledgeable of the rules, of the anti-doping rules.

Then, in clause 23, we note the provisions with respect to the whereabouts requirements:

“A national-level athlete and an international-level athlete in the Registered Testing Pool of TTADO shall, before the beginning of each quarter, submit to TTADO on such form as TTADO may approve, a quarterly whereabouts filing that provides accurate and complete information about the whereabouts of the athlete during that quarter, including information specifying—

(a) where he will, on a daily basis, be living, training and competing during that quarter...”

There is nothing wrong—any athlete should know where he is at any time in a quarter, but, you see, it is the compliance with the providing of forms, the supplying of information by a formal process that tends to lead to lapses while you are focusing on training. You may say the manager can do it, but while you are focusing on training, there is opportunity for lapse. What is the penalty? The Minister may say “None for yuh! No financial support, you are no longer eligible, you are prohibited from participating in national and international competitions and I may impose some other sanction that I may choose”.

So, I am wary about it. I repeat, I am not opposing this piece of legislation in its entirety. There are aspects of it which I think can be refined with a greater consideration for those who have their fingers in the pie of sport at all times, and who have demonstrated finesse, skill, expertise and integrity in matters of sport. There are many of those bodies and I place the National Olympic Committee at the top of the pile in Trinidad and Tobago, so I am going to be urging that that be taken into account.



Beyond this, the Minister also by clause 27, has the power, as required by the law, to establish the disciplinary panel. Is that right?

**Sen. Al-Rawi:** Yes.

**Sen. E. Prescott SC:** So you have established the body that does the testing, the body to whom the athlete must report, you are funding that body, you have identified the members, and then when you come to the disciplinary panel, it is the Minister once again who appoints all of them. [*Crosstalk*] I am sorry if I misspoke—the President on the advice of the Minister. I know that it means the same thing, but permit me to read it from the Bill:

“The Disciplinary Panel shall comprise nine members appointed by the President on the advice of the Minister...”

Why not on the advice of somebody else? Okay, so I have said National Olympic Committee many times, but why not? Why could it not start on that basis?

Minister, once again, if it does not really conflict with government policy, give some thought to that—that you could introduce civil society into legislation of this sort because it is really concerned with people’s pastimes, and in some cases, people’s profession, so that one could be more cautious about providing governmental authority with greater strength and the power to penalize. We do not need to be penalizing people who are going about their business in this fashion.

Remember, when you read—I forget what you call this thing—what this Bill is about, it says it is to promote an anti-doping environment; none of this promotes an anti-doping environment. The history has shown us that those who wish to cheat at sport will do so and will get away with it, and will earn large sums of money doing it. I do not have to call recent experiences. There are many persons who have made their living by cheating in sport.

There was a time when I was quite young, after Ben Johnson had been ridiculed globally, I thought maybe we could just have the games and you turned up and if you won, you won and if you died, you died. But no, governments must be careful to ensure that people do not kill themselves. Those who take prohibited substances in order to compete at the highest level run the risk of endangering themselves, and Governments, in this part of the world, do take the responsibility of protecting people from themselves. So, I no longer have my childish view that we could have doping games and whoever wins, wins. [*Laughter*]

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But, remember that if you are seeking to control behaviours so that there will not be, or rather that you can promote an anti-doping environment, this Bill will not achieve that. This Bill will permit those who wish to comply faithfully to find avenues to do so. It will tell those who wish to succeed at any cost what they must avoid. They must read this, know it thoroughly and prepare their lawyers to take up the pen and send out the pre-action protocols—Sen. Mc Knight—from the time somebody comes towards you.

There have been cases of people who have just simply disappeared from the radar. Just recently, a Caribbean athlete in the Olympics, seemed to have had a good reason to go and visit with his family and so, just before his race. Thankfully, that National Olympic Committee—and once again, I want to stress it, a National Olympic Committee—who probably would have thought that this is our only hope of even getting into a final said, “I am sorry, we needed to know your whereabouts”. So, National Olympic Committees, if I may appear to be digressing, stand by their integrity in these matters and ought to be given greater consideration.

The Bill is not going to achieve its objective of encouraging positive behaviour, it might martial behaviours. It will not dissuade anyone from using prohibited substances or prohibited methods if it is their wish to do so. Indeed, in some societies, laws permit people to do as they wish with their bodies. We do not necessarily adhere to that in Trinidad and Tobago but it is a fact that people can and do have the right. So that we are not going to succeed in this objective if that is what these provisions are meant to do.

So, I have pointed out that the TTADO is established through the machinery of the Minister, the finances are coming to the sport and to the national sporting body and to the athlete through the generosity of the Minister, the disciplinary panel is established by and at the discretion of the Minister. The Results Management Committee, Government-appointed members, these people have the duty of referring adverse analytical findings to the same disciplinary panel that the Minister has established. It is a quite convoluted arrangement but it does not appear to be convoluted in favour of the athletes. It is convoluted in favour of a super regulation of every activity within sport.

**Sen. Al-Rawi:** Well said! [*Desk thumping*]

**Sen. E. Prescott SC:** And my purpose is to try to dissuade the Government or—let me put it differently—to persuade Government to look at its policy again, and determine whether it could not be a little less of a gatekeeper in these circumstances.

I heard Sen. Dr. Ramkissoon [*Laughter*]—Prof. Ramkissoon hint at the use of the academics within the Caribbean university to establish laboratories and research bodies in these areas, and I am very much supportive of that.

Mr. President, there exists at this time—and I hope I am right about this—a regional anti-doping organization.

**Sen. Al-Rawi:** Caribbean Regional Anti-Doping.

**Sen. E. Prescott SC:** Well, I knew them as RADO up until now, but fair enough, the regional body within the Caribbean, and they have been calling it the RADO. It is an acknowledgement that there are many experts in these areas in the Caribbean, and that therefore, the synergies that could be obtained from bringing them all together under one head can be more beneficial to most of us than it is to the few. There might be one country who may say no to it, they know themselves, but equally they may submit, you would not always be at the top of the pile. The fact is that the Caribbean does produce experts of the highest order in almost every walk of life, and there are those whose involvement is in sport and medicine and doping or anti-doping if you like. I saw another word here I might want to use, something to do with—may I just try and find it?—anyway, something to do with doping in sport.

The truth is that there may well be opportunity for the Government to consider, before they press on with this, whether a Caricom initiative or a Caricom input, or at a higher level, a Caricom body, could not possibly bring about the same results that we wish.

**Sen. Singh:** Serious?

**7.15 p.m.**

**Sen. E. Prescott SC:** Well, somebody asked whether I am serious. It probably comes from a position of knowledge because I do not pretend to have it, but if there is no prohibition in Caricom or in the treaties that we adhere to, could we not canvass it? We may well prefer to be leaders in it, so they do not go astray. Why not? It may delay what is being sought after here today, but we know that for the moment at least, I think that is correct, today, the National Olympic Committee is functioning as the NADO. Am I right?

**Sen. Al-Rawi:** It is.

**Sen. E. Prescott SC:** I think I am right. The National Olympic Committee is holding that interim position until we establish the Trinidad and Tobago Anti-Doping Organisation. It might be a titular function, but it is a function nonetheless.

So that even if we were required to wait that much longer operationally to put things in place, it can be done. Some parts of this legislation can go through while we look at—how do we combine with our Caricom partners, or brothers or those who have

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some interest in sport at the highest level, to bring about some economies to us, and not only economies, some advantages from the combined intellectual work of all our citizens in the Caribbean.

As I had promised, Mr. President, I do not wish to be long on this. I suspect that the committee stage might be the best place to point out some of the changes that could make it workable and make it more acceptable. I want to remind all of us that if we are going to continue to be compatible with the National Olympic Committee's charter and its statute, we must stay away from the interference by Governments in the management of what we do. The National Olympic Committee already does an admirable job in that regard. When you hear of cases of people who are found guilty of doping, bet your bottom dollar it is a private initiative by that member. He has no reporting to his national body, the national body cannot contain him. I doubt that Trinidad and Tobago, whether we establish TTADO or the appeals body or the disciplinary body, would have the power and the wherewithal and the resources to do it.

With those few words, I thank you very much for the opportunity, Mr. President.  
[Desk thumping]

**Sen. Al-Rawi:** Well said.

**Mr. President:** The Minister of Sport. [Desk thumping]

**The Minister of Sport (Hon. Anil Roberts):** Thank you, Mr. President. And on the advice of my colleague and long-time acquaintance, Sen. Fitzgerald Hinds, I shall ignore the raw politics of Sen. Al-Rawi, and leave it for when he gets the testicular fortitude to come downstairs, having put himself up to the electorate to get a vote.  
[Laughter and crosstalk]

**Hon. Senator:** Chaguanas West?

**Hon. A. Roberts:** I will deal with him there. So, I will ignore—at whatever time that is—[Crosstalk] whether it is in two years, in 10 years, whenever he goes downstairs—

**Hon. Senator:** “He going tonight.”

**Hon. A. Roberts:**— I shall deal with that.

**Hon. Senator:** “He fighting Chaguanas West.”

**Hon. A. Roberts:** Well, that could be true, for I have no crystal ball like Pena, but one thing I would do is, ignore his innuendo and his politics, Mr. President, and keep the debate—

**Sen. Hinds:** You will conduct yourself.

**Hon. A. Roberts:**—yes, and keep the debate as we have been going and I must commend all the Senators who have contributed. I have listened intently, and I hope to go through each and every one—no, platform is coming, if you want to be a leader you have to take that, this is Senate, relax. [*Interruption*]—thin skin—I sat quietly and listened to you, please, I only have 43 minutes and 40 seconds. I need to deal with some serious issues. Mr. President, please, I am a guest.

**Mr. President:** Senators, please!

**Hon. A. Roberts:** Thank you. [*Laughter*] Let me first of all apologize to the one or two Senators who thought that I must come here having presented a Bill, laid it in Parliament a month ago, went through it and spoke for an hour and 15 minutes about the clauses, the relevance of the clauses, went through committee stage, went through the clauses. I apologize to the one or two Opposition Senators who thought that I must come here and read with them and go through clause by clause. I humbly apologize. I thought I came to a higher level, so I would get in-depth into the understanding, the analysis and the purpose of the Bill, but I apologize. I am sorry to those, yes. [*Interruption*]—whatever, you could get all now—let me just do that.

Let me start with Sen. Prescott and I must commend him for some points and I would like to ask that, as I listened, and I can be convinced of anything because anything to make this better law for the future of Trinidad and Tobago, I am here to ensure that happens. But I hope that it is reciprocal, that if I make a good point, that you will also agree that I may be able to convince you to change your mind. I must commend you for, I believe, your last 20 years of service in the Trinidad and Tobago Olympic Committee, roughly—[*Desk thumping*]

**Hon. Senator:** Ooooh!

**Hon. A. Roberts:**—I heard you recently demitted office, 22 years, so I can see the tone of your contribution came from a position of an affinity to the Trinidad and Tobago Olympic Committee, an august institution which has done extremely well over the years.

The Trinidad and Tobago Olympic Committee has been consulting and pushing this initiative for the longest time, but the problem is the mere fact of your argument—that the Trinidad and Tobago Olympic Committee is made up of persons who are passionate in sport, who are intrinsically linked to sport, who know about the coaches and who are close and it is a nice close-knit community—is the exact reason they cannot appoint this very body [*Desk thumping*] because this body must be above and

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beyond anything. They hold the lives of children, of athletes, in their hands. They cannot and I agree, no Minister must be involved in influencing them. Nobody must be able—they must be able, and that is why Prof. Ramkissoon while it may seem laborious, it may seem bureaucratic, it may seem expensive, those committees are there to ensure that you protect the individuals who are brought before it in any form or fashion, to give them at every juncture, an opportunity to clear themselves and to negate the possibility of a false result. And that is also why the honourable Olympic committee cannot appoint the Board because they work with the athletes.

For example, let us say that a country's greatest athlete tests positive at home, an Olympic committee, their funding, their notoriety, their fame, their passion, their world renown is dependent on that huge athlete. They may be influenced to suppress, change, disregard or create an opportunity for that super athlete to escape.

So the Olympic committee is the one who selects the team to go to the Olympics. The Olympic committee is the one who sets the criteria for the team to go to the Olympics. The Olympic committee is the people who manage the team from the Chef de Mission, the manager, choose the coaches, they choose everything on that team. So you cannot in good stead with the principles of separation of powers, put the Olympic committee to check on—to appoint the Board. [*Desk thumping*]

If you do not want a Minister, all right, well, give some other solution, but in this process a Minister—and I think the point was that another Minister might come and might be a seamstress [*Laughter*] or may not be involved in sport as myself, that is okay, but that in itself might be good because that person, not being involved in the society, will pick people through the advice or take advice from as many different groups, whether it is the university, whether it is the Olympic committee, whether it is NGOs, whether it is the medical, MPATT, take advice and present a board that has no connection whatsoever, and that is what you are looking for. So maybe the mere fact that a Minister does not have any interest or knowledge might be better.

Now, I can suggest to this honourable Senate that because of my involvement in sport since 1977, I have to disagree with my honourable learned Senior Counsel about a statement he made there. This cheating, this anti-doping is not about being soft, feeling sorry for people. There is no-nonsense, zero tolerance in Trinidad and Tobago for any form or fashion of cheating; there is no room for any softness [*Desk thumping*] anything other—anything; this is a serious piece of legislation and the reason we are doing it is that we are moving into sport tourism. The Government, the Cabinet of Trinidad and Tobago over the last year and into the next two years, is going to spend \$2.25 billion on facilities for our children, our coaches and our nation to use, as we move into sport tourism, to invite countries, coaches, athletes here.

We do not want to have a haven with any softness to allow athletes to come here to train in our brilliant facilities, and utilize doping, utilize substances or feel that they come down to a soft society. It will be sending a message to the globe that not only—I heard Sen. Deyalsingh—I think he is at home watching, he said—[*Laughter*]*—what—no, he said that he will be watching, yes, [Laughter]—he said that, you know, to bring in a trip, to bring about the UNESCO Convention, there are three options, why did we choose this one. We did not choose this one, we are doing all three.*

For the last 20 years the other two—the policy, the administration has existed. Since 1992 our athletes have been tested, they have succumbed to their quarterly reports. George Bovell, Richard Thompson, all of these athletes, this exists and I think there was—what this Bill brings is the final step in leadership that Trinidad and Tobago is saying [*Desk thumping*] to the world, we are not only going to do the administrative part, we are not only going to put the policy, we are now going to legislate, and we will not, unfortunately—and to some of my Opposition colleagues there who—I was shocked when they were making some contributions. I called upon—I looked up and I thought wherever Dr. Williams’ ashes are in the Gulf, that he would have come together and shaken, knowing that that was coming from PNM.

I heard two of my PNM Opposition Senators saying, we must look at the big countries because New Zealand and Australia are the greatest things since sliced bread, whatever they do we must do. Well Dr. Williams, why did you raise that red, white and black in 1962?

**Sen. Ramlogan SC:** Yeah! [*Desk thumping*]

**Hon. A. Roberts:** You should have just left—as far as I heard from them, you should have just left the Union Jack and let us follow them. Unfortunately, I do not agree with them because my entire life I have done things a little bit differently. When some said that “ah dougla like me cyar swim because yuh have to look ah certain way”, I got into swimming. “So, de first young fella who look different, to have ah national record, yuh seeing him”. [*Desk thumping*]

When they went to England, went to the English National Championships in 1980, “yuh could see my mother in ah sari and my father—over 10,000 people, yuh pick dem out one time in de stands. Yuh just look up and yuh see them. We went there and first one to make ah final in the British Nationals.” I did not bow down and say, okay “fellas” you all beat me because I am from Trinidad and Tobago, and “ah” will not stand by and hear people who want to be leaders talking about—I have not heard things like that since 1973. I was shocked. [*Interruption*] I would not even get into it. I am talking to Mr. President, furthermore—[*Desk thumping and laughter*]

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Mr. President, in 1996 as a coach, we took—[*Interruption*—yes, “is comic relief, is correct’. In 1996 we took a young lady from Barbados who trained in Trinidad and Tobago with a coach who looked like me, to walk into an Olympic swimming final and came fifth. So, I cannot and I will not accept argument that New Zealand is greater than Trinidad and Tobago, and Australia—and we must look—[*Desk thumping*] well, then why do we pay our local lawyers? Why should I go down to that law firm and hire? I should only go outside and hire foreigners, [*Desk thumping*] but I will not do that because I believe that we are better than them, and I will continue to move and operate in that vein. [*Crosstalk and laughter*]

**Hon. Senator:** Anecdotal research. [*Laughter*]

**Hon. A. Roberts:** Mr. President, so I agree, of course, education—let me tell you, the education process will continue, but it has been going on for a long time through the Olympic committee, through the former legal advisor, senior legal officer, Ministry of Sport. Part of the reason you saw 30 projects of which Trinidad and Tobago was not on one with the UNESCO funding, is that we already got four years ago. So, we conducted that but we have to continue doing it.

The problem that we must understand here and it got a little lost—the practices and the policies have been going on in a less formal manner, but the WADA Code, the other question brought about was: why “ah” did not bring legislations here, staple it on? No. The legislation specifically speaks to a code that WADA creates, this is an official code, but it is a dynamic code. It can be a code today of 53 pages, 3,000 pages, they will add on some pages tomorrow, they will take off some. The code is a dynamic regulation that changes with science, as new science comes out, new methodologies and new tests. So to come here and put in the law that these are the regulations, it cannot work like that.

**7.30 p.m.**

The code—WADA is in charge. TTADO is a smaller part of WADA with regard to policy, testing, practice, process, committees and argument and discipline. Those are there and exist. There is no need for us to reinvent the wheel. Where we reinvent the wheel is education, research, analyzing our foods, analyzing other medicine, calling Trevor Sayers and telling him, let us check out what he is offering to see if it is legal or if it fits into the WADA prohibited list. [*Laughter*] That is what we can do as TTADO. No, I am serious. [*Interruption*] No, but the code is specific and structured.

The Trinidad and Tobago Olympic Committee, because they did not exist, this independent body has been doing a good job; but of course we must do better because you want to eliminate any possibility of interference, influence, bias or conflict. This is



why it is created in this way. This is why all of those bureaucratic levels are put there; not only to protect the athletes, but to protect the process and to ensure that everything is done above board.

Moving right along; I should be going from the back to the front. Right! So I think I answered some of Sen. Mc Knight's concerns. Expensive—ah, yes. The eventual objective with this legislation—you keep asking, why do the third step? Why do the third step? You want to know why? Because you are correct. I am tired and I am offended that our samples must go to Venezuela, to Costa Rica, to Canada, to USA and, therefore, with this legislation showing WADA that we are serious, analyzing and disseminating this information to the existing labs, private or government, those who will be given the code and the first one to come up to scratch, we will be pushing through whoever is the TTADO to get a lab here so that we could do testing.

There is also revenue in it. It is very expensive. I think the last time I heard, it was US \$112 per kit, per test. That is the last one. I could be—do not hold me to that exact number, but that is an approximate cost. Now, if we get the lab, that is revenue for Trinidad and Tobago. This is one way. Doing the legislation gives us the possibility to take the lead to getting an accredited lab so that everybody, every competition—Dominican Republic, Puerto Rico, Barbados—they will have to come here for their testing. Whether it is swimming, running, archery, basketball, football—all the tests will have to come here.

Timeline, we are ready. Those doping control officers exist. We have been conducting testing here in Trinidad and Tobago for the last 12 years. The NAAA at every national championship, they do random testing; not many, but they have been doing an average of 10 to 18 tests at national championships, at swimming. So we have the doping control officers, so we are ready. It is just to get the legislation, make sure that consultation goes on to get the correct people in positions that are totally independent and move forward.

Yes, it is going to be expensive. It is going to be funded by the taxpayers, but it is also to protect the taxpayer, so it is not going to be like an NGO where the Minister or the Cabinet can say, "This year I give you a million. Ah really doh want John Brown to test positive nex' year. Nah, boy, ah givin yuh \$50,000." It is going to be a specific amount determined by—the TTADO will be responsible, for the financial part, to the Parliament of Trinidad and Tobago, just like other statutory bodies.

So, funding for TTADO and the other bodies will not be up and down and negotiate and so on. We have the grants that they can go international bodies and so on. That is up to them. We did not want to open it up to companies that operate in Trinidad and

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Tobago because many of the big companies sponsor big athletes. So if you sponsor a big athlete and you sponsor TTADO and your own tests positive, you may have some influence. So we have to monitor that so that private corporations cannot just get involved in funding TTADO.

What would they spend money on? For example—you said the pool of athletes—in Trinidad and Tobago, elite athletes who are ranked about top 40 in the world and so on are about 120, including all the relays and so on. We expect this to increase; however, all the other competitions—if I am running a swimming competition and I would like to have some testing done, I could pay. TTADO will have a fee, so it will not be free.

The other ones, the out of competition, the compulsory ones, TTADO has to pay for those. The athlete does not pay for their own test; but for others who do not fall in that pool, a fee could be charged for educational materials, for consultations, for lectures. TTADO could provide those sorts of services. They will do booklets and brochures, copies of lists—TTADO could sell their lists to people who have gyms who want to let their citizens know who are just coming in to exercise. So that is where the little fees and so on will come in.

I think that is Sen. Baptiste-Mc Knight. I will go on to Prof. Ramkissoon. I think we handled that already. I go on now to Sen. Deyalsingh. He said that this is not—brilliant contribution, very good, went into a little politics; I will deal with that downstairs. I am behaving good today.

He spoke about that this is not the cure-all. He is correct. It is not the cure-all and Sen. Prescott, cheaters will always cheat; but that does not mean we lie down and do nothing and say well, cheaters would always cheat. What we try to do is each time push them more in a corner, push them more in a corner 'till, hopefully, someday, we could have clean sports; but to say that this is the be-all and end-all, no it is not.

Well, I said we must sleep and I also spoke—the code is there. The code is there for everybody and it has been disseminated, but the code is a living document. It changes all the time. So you cannot just put tight regulations 'cause WADA is in charge and they might change it. You do not want to come back to Parliament every minute to say we have to change those regulations.

Now, I totally disagree with Sen. Deyalsingh who said this is wasting Parliament time. I do not think that needs explanation, but I simply, totally disagree. He went on to talk about consultation. Well, not only has this Bill had the most consultation in the history of Trinidad and Tobago, it has actually—most of these tenets have been actually going on, so we know the process. The athletes are already aware of how they

have to fill out their forms. I think Sen. Prescott always said that the Minister could take away funding. First of all, it is not the Minister. TTADO is an independent body. They will do a test, come up after it goes through all its stages and say John Brown tested positive, A and B sample; Minister: “recommend no funding”.

That exists right now. We have an athlete called Semoy Hackett who was in the NCAA finals. She tested positive. She was an elite athlete getting funded. “She not getting funding.” This is nothing new. You cannot get funding if you test positive, simple as that. [*Desk thumping*] “Trinidad and Tobago’s image too important.” So, hard luck. I am very sorry. It exists now; it is nothing new. If you play with drugs, you will not get funding. It is that simple. [*Desk thumping*]

And then, Sen. Deyalsingh talked about harmonization. This is the harmonization of WADA’s controls. Now, let me just go through the process quickly because Sen. Al-Rawi, in-between, had some very good points and I will deal with one of these points so that he would know that the protocols processes that have been tried and tested will be adopted.

Let us take, for example, competition testing. We go into a competition. George Bovell wins a medal. As soon as he touches that wall, the results are up, there is a doping control officer walking right behind him, an official with his tag and so on. Wherever he goes, that person goes with him. He is allowed to cool down. He signs the form, so the clock starts. So he has about 12 hours at that time to give a sample. He can go and swim down, get massaged and so on. Anything he drinks, he will have to drink water from the doping control refrigerator. They do not allow a coach or a massage therapist, a trainer to give him anything in-between that time.

He presents himself with a manager or with a parent. If it is an underage athlete, the parent or the manager who has been given the power of attorney so to speak or the “powers of parent” for that competition must go in, so the athlete does not go into the room alone. They then get to select—there is a big stack of plastic-sealed containers, two in each one—you can choose any one. They do not hand it to you. You could go; you could throw down all; dig down in the bottom and take out one.

You then, the athlete is the only one who can touch this from then on. The athlete will unseal it. You will check the seal—each one has a code, ABDC 258. You check that; you fill out the form; put your name. The athlete puts the name on the form only that he or she keeps, so the only thing going forward is a number. So no one can say that this is Sen. Al-Rawi’s sample, let me go and tamper with it and put it in. They will not know. It is just a number. The only person who will know is the athlete or the manager or the parent.

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You then check through to see that all the seals have not been tampered with and you go into a cubicle. The doping control official walks with you. This is the most embarrassing, invasive part. They walk right inside and look at you putting the sample because there have been instances, when they check the sample, it was a male and he test pregnant. [*Laughter*] No, we may laugh, but serious.

“As Sen. Prescott said, people will do all kinds of things to cheat. Rebeca Gusmao, great Brazilian swimmer, won five gold medals and so on. “When they checked the test, it was her trainer who put the urine in the sample and then when they tested her, she tested positive. So they look at you, “if yuh cyar go, you ha to keep trying; but siddong dey, drink water”. They check the colour of the urine and so on, if it is not up to standard, “yuh ha to wait dey and go again”. When you finish, you seal it; nobody touches that. You seal it and there is a tape that you put around it and you put it back into a sealed case; pull that case, seal it and it goes away, but there is no name on that. So that could be any one of us. There is no way of knowing which one it is. It then goes off; it is put in the storage containers and gone off to whichever lab, registered, WADA-approved lab.

So, to answer your question, here in Trinidad and Tobago for now, we are not storing any samples—we are not allowed to—until we get an accredited lab. So that risk is not there. Am I happy that we have to go out? No. Eventually, we would like to get a lab here that could handle it. So, it goes straight on; plane; into the lab; they do the results. If it is an A sample, TTADO or the Olympic committee will get the report. They will then notify the athlete and when they notify the athlete, the athlete has an opportunity to request the B sample. They check, go through the process; they check the number, the athlete says yes, that is my number. Test my B sample. They test it; results come back, then the process goes on through those committees.

With the TUEC, very important: I have asthma, for example—if you use this, [*Shows inhaler*] this as Dr. Wheeler says, could raise your heart rate and increase your lung capacity, so somebody who has strong lungs, they take this, they could increase their oxygen-carrying capacity and improve their performance.

Now, if somebody has asthma, you go to the TUEC with your doctor’s report and so on, fill out that form and, therefore, if you test positive for Ventolin or whatever you are taking, you are not positive because you have put that there in advance.

With the discussions of strict liability and with regard to consultation brought up by Sen. Deyalsingh, there has been more than consultation. There has been actual process over the years—every NGB, everyone knows the process, what is

required. Every athlete knows; if you go and you ask them, they will be able to explain it better than me because they know it down to a T. So consultation has been done. They understand strict liability; they understand the process.

Now, Sen. Deyalsingh said you have to link this to the DNA Bill. I beg to humbly disagree. This is stand-alone legislation. The TTADO has no one—they are not holding anybody's sample. It goes to WADA and WADA has their own rules out there, so it cannot move from WADA. The sample, once it reaches that laboratory, it is out of the possession of TTADO. TTADO has no longer any jurisdiction over it; therefore they cannot take that sample and give it to anybody else other than the results to the athlete.

**7.45 p.m.**

So, therefore, the DNA legislation here is not impacted because you cannot take an athlete's sample which you do not have possession of and give it to any laboratory to ask if John Brown committed an offence or did a rape. You cannot do that. It does not arise. If and when we get a lab, maybe we have to come back here and say, "Listen, if that sample goes to that lab, maybe we have to legislate that." Whoever is in charge of that lab must understand that they are in full possession, accept liability and is in charge of that sample.

Until such time, we are safe with that because the sample, there is no custody here. It goes immediately. That is the process, and if it cannot go immediately then you cannot test. That is how serious the protocols are because once you have intelligent attorneys, any flaw in the process is going to negate the result, and that is why WADA has been very specific. That is why some of their ranges are so ridiculous because they do not want any argument that it could have happened naturally. That deals with the data protection.

We also dealt with the children. There are children like Kerry Ann Gibbs, an athlete. She qualified for the Olympics at 12 years old. She still has the national record for 200 metre breaststroke in 2:36.01. In 1995 she went to the Pan Am championships and placed 10th in the B final. She qualified for the 1996 Olympics. During that period she was tested four or five times. She was 12 years old. Her mother had to sign. If her mother was not there, as manager/coach, I sign that authority. That has been the way and method that it is dealt with.

It may not be the norm in a normal society, but being an elite athlete, with the education that goes on, and the information that has existed for 20 years you accept that responsibility going to a world championship. So the parent knows, "Listen, this is the process, once you enter, those are the world rules." The parent can decide, "Well I am not subjecting my child to that." Well, no problem, they just would not be allowed to compete. So those are the rules. It is a hard life, but the rewards are great also.

*Anti-Doping in Sport Bill, 2013*  
[HON. A. ROBERTS]

*Tuesday, May 14, 2013*

Moving right along; dealt with that. Where are the rules? Beyond too far too fast: no, we are not going too far too fast. We are going a bit too slow because this has been around a long time. Not getting into politics, but we are ready and we are ready to move forward. We are ready to take the lead. I do not feel comfortable investing this Government, the Cabinet and convincing the Cabinet to build an aquatic centre, a cycling velodrome and a tennis centre for \$770 million and then in nine community centres for international people to train at another \$800 million, and then sit here and allow people to come into Trinidad and Tobago and embarrass the country.

If one of our athletes tests positive it is a terrible embarrassment to us. It is as bad if an athlete comes to Trinidad and Tobago and tests positive or is using here as a base to cheat. We do not want to see that an athlete came before the Olympics 2016, and when they test positive, they say, “Well, they were in Trinidad and Tobago hiding out and they were training there and that is where they came to do their thing.” We do not want that. We have to be careful. As you said, the risks are too great. The money is huge and we have to be very careful.

Sen. Al-Rawi, well no one else has this legislation. If that is true, that is all right. Trinidad and Tobago, nothing wrong with being a leader—compliance exists. [*Crosstalk*]

**Sen. Al-Rawi:** The period of limitation.

**Hon. A. Roberts:** Which one?

**Sen. Al-Rawi:** The period of limitation; the eight-year—

**Hon. A. Roberts:** The eight-year, no we will deal with. Good point. In committee stage, you will address that for us, please, and we will deal with. [*Desk thumping*]

About the hiring practice, yes they need permanent staff, but you cannot bring the budget here in the legislation. What would happen is once we are ready to roll, and you do up an organizational chart in consultation with the stakeholders and you come up with two doctors, two lab technicians, whatever it is, that has to go to Cabinet; it will then go to the Minister of Public Administration and the PMCD, and the requisite job specs, scope of terms of engagement and so on will be in line with what exist in the public service. Then once that is approved, full-page advertisement and the normal process—HR committee and so on—to hire whoever for those positions.

**Sen. Hinds:** Terms and conditions of the President.

**Hon. A. Roberts:** Good question. We could discuss that. I do not know that the President does not have that skill. If they do not have it, then I think we have to depend on the PMCD. So in committee we could change that if he does not have it, because we do not want to give the President extra work. "He job hard enough already." How much time, Mr. President?

**Mr. President:** You have 12 more minutes.

**Hon. A. Roberts:** Well, with that, I beg to move. [*Laughter and desk thumping*]

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Mr. Chairman:** We will now proceed with the clauses.

*Clause 1 ordered to stand part of the Bill.*

*Clause 2.*

*Question proposed:* That clause 2 stand part of the Bill.

**Hon. Roberts:** I beg to move that clause 2 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, if I could, just through you, enquire, this is so we have estimation. Is the hon. Minister able to say when it is envisaged that proclamation may actually happen? If you are not able to, it is okay, but is there a larger time frame and there are certain undertakings to be had?

**Hon. Roberts:** No. I cannot say what time but, obviously, in governance but as soon as possible. We have a lot of the situations and the qualities of people, they exist in the society. So, whatever time the public servants need and so on to get going, we will move at that time.

**Sen. Al-Rawi:** Thank you.

*Question put and agreed to.*

*Clause 2 ordered to stand part of the Bill.*

*Clause 3.*

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

**Hon. Roberts:** I beg to move that clause 3 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, if I could, for the purposes of record, enquire what the hon. Minister's position is in relation to the need for sections 4 and 5 exemption, section 13, for other than privacy concerns?

**Hon. Roberts:** Well the privacy concerns were the main ones that were brought up. I noted and I had original concerns, as you said, because we are taking samples, but that has existed and the legal staff at the Office of the Attorney General and Solicitor General had said that that was not really absolutely necessary; freedom of movement.

**Sen. Al-Rawi:** And the issue of property rights in terms of the pecuniary hit in clauses 23 and 26, the fact that your prize moneys can be taken away, disqualification, et cetera. The reason why I am raising it is that in the event that there is a challenge to the legislation, it would help if we had on the record that the Parliament reflected upon the impact in that regard.

**Hon. Roberts:** Well, we did and currently those things exist and have existed and the convention has been under the Trinidad and Tobago Olympic Committee and the NGBs that participate in these competitions that funding is automatically rescinded based on any positive testing.

**Sen. Al-Rawi:** So, there is a property concern.

**Hon. Roberts:** Correct.

**Sen. Al-Rawi:** Could I also enquire, perhaps your team—*[Interruption]*

**Sen. Ramlogan SC:** One second. I understand what my learned friend is saying about saying something for the record, and before we move on, whilst we are on clause 3, with respect to the proportionality and respect to whether it is reasonably justifiable in a democratic society, perhaps I should say for the record that the issue of drug use and doping in sport is a matter of concern to the region, the Caribbean as a whole, which has, in fact, outperformed many athletes from First World countries as evidenced by our recent medal haul in the recently concluded Olympics. That said, we are not exempt from the growing problem of drug usage and this Bill aims to protect those young athletes as well as the established ones from the ravages and the consequences of doping.

So that we think that the measures here insofar as we have recognized that they violate sections 4 and 5 of the Constitution, and we have come for a special majority, we think that the measures are reasonably justifiable and proportionate to the aims of the legislation having regard to the particular societal problems. So I say that for the record.



**Sen. Al-Rawi:** Thank you AG. Could I enquire as well please, again for the benefit of the record, could I ask through you, Mr. Chairman, to the AG, what is his view in relation to the—how do you feel about the proportionality of the self-incrimination positions and the tenure aspect—the whole Hinds Privy Council line of authority in terms of the insulation of those people who will be deciding offences, for instance, in the disciplinary committee being appointed by a ministerial office, essentially, being people who are not necessarily insulated; how do you feel about the protection from that and the right of self-incrimination?

**Sen. Ramlogan SC:** I think in a matter like this where there is precedent elsewhere in the other Caribbean territories, we take a certain degree of legal comfort from the fact that similar provisions and procedures exist. But I suppose, more importantly, the separation of powers is not meant to be so absolute that this will trigger a fire on the boundary line, if I may use that expression.

The independence of the body once appointed is what is important. I do not see that the fact that the appointment is made by the Minister in itself would violate any of the constitutional underpinnings. In the case of *Cooper v Balbosa* which I had done in the Privy Council that point was made forcefully by the Board, that the separation of powers does not necessarily mean that there cannot be some bridge because, ultimately, from the President of the country come down, the Government ultimately has a say.

**Sen. Al-Rawi:** Agreed AG.

**Hon. Roberts:** Let me just deal with that also, Senator. The Board, the disciplinary panel, in handing down punishments will not have much leeway for their own opinion. The code, with specific items, there is a punishment required and all they would be able to do is on getting the substance, look across the table—whether it is six months, four years, two years and so on—there is not much leeway except when stipulated by the code that the substance may not have been directly. So they do not have a lot of discretion.

**Sen. Al-Rawi:** Thank you, hon. Minister. What I am also concerned about, AG, I do not know if you had a chance to look at the Jamaican law. The Jamaican law is actually not done with a sections 4 and 5 equivalent in Jamaica exception. They have actually just done it on a simple majority basis.

**8.00 p.m.**

I could not access the *Hansard* report there because it was not online, so I did not know how they treated with the constitutionality issue. But the self-incrimination point in section 5 of our Constitution is the one that troubles me.

I accept and I agree, I think you are right on the appointment issue. What I was more concerned about is the removal of people by a Minister's recommendation, because there are terms for the appointment of the three specific bodies that we are looking at: the appeal panel, the disciplinary tribunal and the Board, where there are removal sections there. This is taking on board Sen. Baptiste-Mc Knight's point. If we were to have some degree of balance in the appointments made there, perhaps some in the sole discretion of the President of the Republic, we would certainly be much better protected from any allegation of an undue political influence that way. I want to make it clear that I am not drawing aspersions against this Government at all, in that regard, but for posterity in terms of having it survive.

**Hon. Roberts:** While that is a valid point, in order to prove influence or interference, in most cases a Minister, if they wanted to interfere in any way, would most likely want to assist an athlete rather than punish, because it is their own country. So to prove the mens rea and the ability to get involved would be quite difficult, especially since the advice on anything—first of all, the pecuniary interest—when you are an athlete, you get sponsorship, public funding based on the premise that you are not cheating. So having cheated you have already eliminated your right to funding, because when you sign the SLA or when you sign the elite programme, that is part and parcel that you will not use banned substances. So it does not arise in that case that you are actually taking away something from an individual that they have a right to.

**Sen. Al-Rawi:** It is a good point, hon. Minister, on one side of the coin, but when you look at clause 37, which is the right to make a recommendation to the Minister to withhold funding for a particular athlete, the converse can be said that way. I would think that in establishing the quorum—the number of members between five and nine or three and six, or wherever exists in the bodies that we are creating, if there was some degree—if the appearance of justice was there, that the Minister may make certain recommendations, but the President in his own discretion shall appoint one-third of the quorum, for instance, there may be some merit in looking at that. It is only a matter of balancing off that board from a perspective, much like the NIB board is appointed. The NIB board is a mixed board by way of example.

**Hon. Roberts:** So out of the nine—

**Sen. Ramkhelawan:** Chair, what clause are we on?

**Hon. Roberts:** Well we went on to another clause.

**Sen. Ramkhelawan:** I thought we were on 4.

**Sen. Prescott SC:** Mr. Chairman, would the Minister or the Attorney General tell us what informs the decision that the appointments must come only from that source, the Cabinet, and whether it is not prudent for us to consider that appointments could be made by mutual bodies? For example, a recommendation could be made from the legal profession for an attorney.

**Mr. Chairman:** Sen. Prescott, I want to deal with that when we reach the section.

**Sen. Prescott SC:** I am on clause 4.

**Mr. Chairman:** Well we are on clause 3.

**Sen. Prescott SC:** Pardon me, I thought we were on clause 4.

**Sen. Ramlogan SC:** “We eh pass clause 3 yet, yuh know.”

**Sen. Al-Rawi:** Mr. Chairman, we went into a discourse because we were dealing with the constitutionality position. Could I suggest something I usually suggest? Because 4 deals with certain terms which will arise in the course of the other Bills, could we perhaps consider leaving clauses 3 and 4, that is the constitutionality clause and the definitions clause? It usually makes sense to do those two at the end, subject to what you guide and what others have to say, because there are some terms in definition that impact when we decide upon other clauses.

**Mr. Chairman:** I understand clause 4, but not clause 3. We either decide—and we have ventilated the question of proportionality at this point. I understand it touches on a number of issues. You may make a decision to vary clauses but they come later in the Bill, but the question of whether we should pass the clause relating to the inconsistency with 4 and 5 does not seem to arise for me.

**Hon. Roberts:** Senator, Jamaica passed their legislation on the old code, the 2008 code, which did not include the requirement of athletes to state quarterly their whereabouts. Therefore the privacy elements of their Constitution did not pertain at that time.

**Sen. Al-Rawi:** But the sampling still did and the property rights still did, which is why I do not believe the Jamaican law may necessarily be constitutional.

**Mr. Chairman:** Well we are not in Jamaica. Sen. Prescott SC you had a—

**Sen. Prescott SC:** I am not on clause 3.

*Question put and agreed to.*

*Clause 3 ordered to stand part of the Bill.*

*Clause 4.*

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

**Mr. Chairman:** Will we defer clause 4, Minister? We will defer clause 4.

*Assent indicated.*

*Clause 4 deferred.*

*Clause 5.*

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

**Sen. Prescott SC:** The hon. Minister had made observations that persons who visit Trinidad and Tobago and who are not necessarily citizens of this country may be susceptible to the reaches of this. Is that covered in clause 5?

**Sen. Singh:** Clause 5(c).

**Sen. Al-Rawi:** Also too, Sen. Prescott, it is tied in through the definition of athlete, because athlete is a broad term and then it is “athletes who are” in clause 5. I was looking at it as well and found it to be probably satisfied by the definition of athlete. What I wondered was, from a policy perspective, I thought that the Jamaican model of the definition for this particular clause was interesting because it sort of created a two-tiered kind of system. This is just a policy question to you: is it that we were considering a very broad net and therefore went with this particular approach, or did we want to confine ourselves to athletes of a superior level, national and broader?

**Hon. Roberts:** We want a broad net including, for example, college footballers who are playing and who fall under the auspices of an association, that if there is any problem or any risk—because it is not only to prevent embarrassment at the elite level, it is also to educate and ensure that children across the board know the drawbacks or ill effects of tampering with these substances, so we wanted to broaden it.

**Sen. Ramlogan SC:** Chair, this was actually a matter that was raised at the LRC and it was deliberately changed to widen the net as a matter of policy. It had to do with the fact that experience has shown that if you have a young athlete who may be under a significant amount of peer pressure, especially at the college level, you would want to protect the athlete from the intensity of the peer pressure.

If the captain of the team or the guy who is performing the best is actually passing around a spliff at half time—which actually happens—it was in keeping with that kind of thinking it was felt that it is perhaps best that the earlier the detection of the problem, the better the chances are for rehabilitation of the person who is actually using

a banned substance, who may go on to become an elite athlete, and also to protect the rest of the guys who are looking on and whose hero is passing them the spliff. So that was a deliberate intention. The definition of athlete therefore captures the young budding stage, the intermediate and the national elite stage, when they have graduated to that level. That was a deliberate policy decision.

**Hon. Roberts:** In Trinidad and Tobago, approximately six years ago, there was a young athlete who finished fourth in the championships and did not make the junior CariftA-Team, but tested positive because his coach was giving him and influencing. So we do not only want to deal with the George Bovells and the Richard Thompsons, we want to be able to test to keep the young ones safe also, so we widened it.

**Sen. Al-Rawi:** Could I ask a question here? Insofar as this definition this Bill applies to, has extraterritorial effect, our citizens whilst abroad, that would call in aid the issue of in private international law, renvoi, double renvoi. Do we need to put in any clause—what is your view, both hon. Attorney General and Minister, to need to include anything that speaks specifically to extraterritorial effect?

**Hon. Roberts:** The WADA Code envisages that, because it was designed for international competition, and it came out of the genesis of athletes competing abroad in different jurisdictions and so on. So within that code, the issues that you are speaking about have been dealt with.

**Sen. Al-Rawi:** Insofar as the code is subsidiary legislation by way of a rule or an adoption, as opposed to the primary legislation, did we need—because the most common challenge in any court on this area of the law is in fact on jurisdiction, even though the code applies. There is not strictly a code harmonization. I was just wondering whether there was something, not necessarily in this clause, but it raises its head in this clause, if we could just keep a little mental marker on it before we finish the Bill, to consider whether that may be necessary or not.

**Hon. Roberts:** No problem.

**Sen. Dr. Bernard:** Did the Minister take into account the Caribbean Professional League—football, cricket—and the players moving in and out of Trinidad and Tobago?

**Hon. Roberts:** Yes, once the CPL players land here, they will be subject to this legislation and the authorities, the Trinidad and Tobago Cricket Board, or the requisite TTADO can go randomly and test or give them before their competition rules, advise them that during any game whatever number of players could be randomly selected or players who performed to an exceptional level, bowl a ball over 100 miles per hour, in the case of Shoaib Akhtar, or hit a six over, past King George the Fifth into St. Mary's Grounds.

**Sen. Prescott SC:** Could someone please tell me what is the definition of the word “in-competition” and “out-of-competition”?

**Hon. Roberts:** In-competition is when you actually enter a games village or land into a competition setting. If you attend the Olympics, the Olympic opening ceremony is on August 11, but you enter the games village on August 3, once you enter that village you are in-competition.

**Sen. Prescott SC:** That is not defined in the Bill. The way it is written in clause 5 what it really says is that the hyphen makes it a different thing. That is a noun now, athletes who are—

**Hon. Roberts:** But the code defines it as a noun, in-competition.

**Sen. Prescott SC:** Is it meant to have a hyphen there?

**Hon. Roberts:** Yes, from the code, because the in-competition has become over the years, due to the code, a noun. It is an actual specific thing.

**Sen. Al-Rawi:** If I could refer you to clause 3(2)(a) as well; 3(2)(a) has a definition of in-competition. That is what I understood it to mean.

**Sen. Prescott SC:** So 3(2)(a).

**Sen. Al-Rawi:** “In-competition during the period commencing...”. Page 10, the page just before this one. Clause 4(2)(a) puts a definition for in-competition and out-of-competition.

**Hon. Roberts:** Okay, well in this definition which is WADA, they advise. So it has changed that in-competition is the actual competition. So if you enter the village, it would be an out-of-competition test. In-competition will actually be 12 hours before the competition starts.

**Sen. Prescott SC:** So in-competition describes something, it is an adjective.

**Hon.. Roberts:** Yes, it describes—

**Sen. Prescott SC:** So a person cannot be that. He can be in competition, no hyphen.

**Hon. Roberts:** No, no, no. The in-competition is a noun in this case; in-competition as defined by WADA.

**Sen. Prescott SC:** It is an adjective when you use it with testing? “In-competition testing” is a phrase that is used.

**Hon. Roberts:** But it is used not as an adjective, as a noun. In-competition testing occurs at—okay, the definition here is 12 hours.

**Sen. Prescott SC:** Means testing is not hyphenated. Why is it hyphenated? Does WADA say hyphenated?

**Hon. Roberts:** Yes, WADA hyphenates it and creates two separate types of competition—as a noun. It is not an adjective.

**Sen. Prescott SC:** It is created by WADA as a word?

**Hon. Roberts:** Correct.

**Sen. Prescott SC:** In-competition?

**Hon. Roberts:** Yes.

**Sen. Ramlogan SC:** It seems to be part of the WADA jargon.

**8.15 p.m.**

**Hon. Roberts:** For the longest while. Now, four years ago in-competition was when you landed in the area or the vicinity of the village, but they have now clearly said that that is out-of-competition. It is 12 hours before your competition, is now in-competition.

**Sen. Ramkhelawan:** So on that matter then, if the definition of in-competition changes as would have been done over the past four years, what do we have to do, come back and change it?

**Hon. Roberts:** No. That is why we did not bring the regulations here because that entire document that WADA creates as the code is dynamic and they might change the definition tomorrow, so that—[*Interruption*]

**Sen. Ramkhelawan:** Then do not have the definition here.

**Sen. Al-Rawi:** That is what he means.

**Sen. Ramkhelawan:** So what I am saying—[*Interruption*]

**Hon. Roberts:** Oh, you mean do not put it here?

**Sen. Ramkhelawan:** Yeah. If you say in-competition means something with respect to the code, it might allow changes without us having to come back to make changes to the legislation here. You understand what I am saying, AG?

**Mr. Chairman:** That it be provided—[*Inaudible*]

**Hon. Roberts:** Yeah. But this one would not change.

**Sen. Al-Rawi:** Hon. Minister, in other legislation that I have looked at—the aim is great; I am on board with it. Right? The question is in making sure that we do not find ourselves with legislation which we have to come back with from time to time because it is hard to move a Parliament to do that. Some bodies have adopted to say, well, look we will be bound by the code, which is attached in Schedule 1, and that the Minister has the ability by way of order of subsidiary legislation to change this from time to time, and that tends to be a very easy way to do it. Fines are done that way, penalties, et cetera and sometimes definition clauses. I have seen it specifically in this context.

**Hon. Roberts:** That makes a lot of sense. We did not want to attach it, but what you are saying—*[Interruption]*

**Sen. Al-Rawi:** And I am not sure how to do it. I think it can be done, but I am just wondering—what is the correct formula?

**Hon. Roberts:** Check to see if the definition of code pleases you.

**Sen. Al-Rawi:** I am looking through it here. Yeah.

**Sen. Prescott SC:** It says the code means—page 5, “the World Anti-Doping Code adopted” et cetera. So are you going to annex the code and make it part of the legislation?

**Sen. Ramlogan SC:** I “doh” really think that that is necessary.

**Hon. Roberts:** Because it changes, they add on and they take off.

**Sen. Ramlogan SC:** Those things, listen—*[Interruption]*

**Sen. Al-Rawi:** The code is usually attached to the rules and regulations. It is actually two steps down from what I have seen in other models.

**Sen. Ramlogan SC:** Yeah. Well we could do it two steps down, you know what I mean. But the point is that these things change so frequently—*[Interruption]*

**Sen. Al-Rawi:** AG—*[Interruption]*

**Sen. Ramlogan SC:**—that you are going to create—*[Interruption]*

**Hon. Roberts:** Are you happy with the definition?

**Sen. Al-Rawi:** I am looking for it now, but what I could say is that the other models that I have seen, what is attached to Schedules includes the construction of the bodies to allow some flexibility there.

**Sen. Ramlogan SC:** Yeah. We have put a long list of potential candidates that could be included in these bodies. So that I think that we would be all right with that really.



**Sen. Al-Rawi:** Yeah. But I am just telling you—*[Interruption]*

**Sen. Ramlogan SC:** “I hear yuh, I hear yuh.”

**Sen. Al-Rawi:**—from a stylistic drafting point of view I have seen the bodies put into the code, their terms and conditions and procedures into Schedules, that kind of approach.

**Hon. Roberts:** No. Good.

**Sen. Ramlogan SC:** Ok. That is it.

*Question put and agreed to.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6.*

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

**Dr. Bernard:** Chair, can we engage the Minister in—because I see we will have to keep coming back to this. The definition “doping” is a scaffolding that will hold all the other pieces together. Mr. Minister, what is—I noticed that we have done like some jurisdictions and stayed clear of the word doping as a definition, so that even if you do not feel like putting it down, we would want to get a sense of what is doping. It embraces some attributes like drug abuse, drug misuse, drug use.

**Sen. Al-Rawi:** Just to resonate that point. The code itself provides in section 23(2) that there are certain mandatory terms that have to be included. One of them, 23(2.2), says that the definition of doping Article 1 must be put in.

**Sen. Prescott SC:** Uh hmm.

**Sen. Al-Rawi:** So I was not sure if we had achieved that or not. I have not seen it in the English or Australian positions. I have not seen a definition of “doping” per se; I have seen it in the reverse, a negative, an anti-doping or method.

**Sen. Prescott SC:** Uh hmm.

**Sen. Al-Rawi:** But the article, the code itself, says 23(2.2) must be implemented by signatories Article 1, open bracket, definition of doping.

**Hon. Roberts:** We wanted, we discussed that at length and we did not want, as Senator said, to get bogged down to a definition that would then give lawyers—when this doping increases and they change the umbrella of doping. Every six months they bring out a new definition, new things are included so we did not want to get bogged down with a tight definition. So, all the other principles and processes have been defined.

**Sen. Prescott SC:** Could you not consider—*[Interruption]*

**Sen. Ramlogan SC:** Sorry, Senator.

**Sen. Prescott SC:** Should we not consider in that case that if there is a body to whom we look for a definition of doping—*[Interruption]*

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:**—that we should simply say as defined from time to time by that body.

**Sen. Ramlogan SC:** I was going to say—I was going there.

**Sen. Prescott SC:** In clause 7 we use the word “doping” and we say “the harm of doping to the ethical value of sport is”—*[Interruption]*

**Sen. Ramlogan SC:** Uh hmm.

**Sen. Prescott SC:**—but we have no idea, according to Sen. Bernard, as to what it might include.

**Sen. Ramlogan SC:** “Doping” is a violation.

**Sen. Al-Rawi:** That arose in the context of defining “athlete, eh”.

**Sen. Ramlogan SC:** Well—*[Interruption]*

**Sen. Dr. Bernard:** It raises the question as well of the legislation moving beyond substances by athletes to incorporate other things, and I felt that our Bill was a bit deficient in that. It did not deal with the production, the movement, the importation, the distribution and the supply of these substances. Where are these people going to be captured as part of the—*[Interruption]*

**Hon. Roberts:** That is it; a different law of the land. Yes. That is not for us, anti-sport. Yeah.

**Sen. Ramlogan SC:** I think that what has happened, Senators, is that “ah” mean doping in the common sense definition really is the taking of a banned or illegal substance. And the question is, who determines whether the substance is “banned or illegal”.

**Hon. Senator:** WADA does.

**Sen. Prescott SC:** The easy answer is WADA does. I am looking at the World Anti-Doping Code. The definition of doping is in Article 1 and it says that “doping is defined as the occurrence of one or more of the anti-doping rule violation set forth in

Article 2(1) through Article 2.8.” It is a very comprehensive code and it is very detailed. I think what we can do—because I think, yes, it should contain a definition for doping—we can simply say that doping means doping as defined by Article 1 of the World Anti-Doping Code as from time to time.

**Hon. Roberts:** Yes. For the time—we cannot go any tighter than that because doping will also mean in this legislation—*[Interruption]*

**Sen. Al-Rawi:** AG.

**Hon. Roberts:**—if you missed three tests.

**Sen. Al-Rawi:** I think that that actually—*[Interruption]*

**Hon. Roberts:** You did not actually take anything.

**Sen. Al-Rawi:** Sorry. Could you have your team look at the Interpretation Act because we may not need to use the words “from time to time” because it may include—*[Interruption]*

**Sen. Ramlogan SC:** Sure. Sure. Well, they will—*[Interruption]*

**Sen. Al-Rawi:**—when it comes subsequently.

**Hon. Roberts:** In Jamaica all they put, for example, is “doping means any violation of the anti-doping rules”. *[Crosstalk]* Right. You all will be happy with that? Jamaica, they say, “doping means any violation of the anti-doping rules”.

**Sen. Prescott SC:** Even that is acceptable.

**Sen. Ramlogan SC:** Sorry.

**Sen. Prescott SC:** I said that is acceptable.

**Hon. Roberts:** The code. Yeah.

**Sen. Ramlogan SC:** Well, we could just—we can go with that, Sen. Prescott?

**Sen. Prescott SC:** Yes. I think that is acceptable.

**Sen. Ramlogan SC:** I think that is fine, you know, because you need to keep it loose. So we will adopt the Jamaican definition—*[Interruption]*

**Sen. Al-Rawi:** Yeah.

**Sen. Ramlogan SC:**—and we will insert that in the definition section. Doping means—*[Interruption]*

**Sen. Al-Rawi:** Any violation of the anti-doping rules.

**Sen. Ramlogan SC:**—any violation of the anti-doping rules. [*Crosstalk*]

**Sen. Al-Rawi:** We need to think about that. Yeah. I think that is the way we should go. I am just listening to you, Christlyn.

**Sen. Dr. Bernard:** Mr. Minister, just for one other clarification. How do you view a cheater: as a delinquent or a victim?

**Hon. Senator:** He is a cheater.

**Hon. Roberts:** With the principle of strict liability, a delinquent. In this anti-doping, because of the history, the conventions, the rules and the ability to prosecute and so on, the strict liability means, once it is in your system you are delinquent. So education is very important.

**Sen. Dr. Bernard:** But if imposed on them, if in fact, as you know it can happen in some instances.

**Hon. Roberts:** That is very sad, unfortunate, but that is the price you pay and you have to understand before you get into elite sport, those are the rules, and there is no escaping it; and you have your coaches, your administrators. This is why education—and I am glad I heard about six different times—is absolutely critical at every level. Even massage therapy—in 1994 the Chinese had growth hormone that they were rubbing on the skin to massage into the system and it cleared the system in four hours. So you swam, you had the advantage, and after that it cleared out of your system once you took the test five or six hours later.

**Sen. Drayton:** If I may?

**Mr. Chairman:** Sen. Armstrong.

**Sen. Drayton:** Ah hah.

**Mr. Chairman:** Sorry.

**Sen. Dr. Armstrong :** I was just wondering whether it would help to say, anti-doping rules as determined by who.

**Sen. Al-Rawi:** It is defined in clause 26 of the Bill. In our definition section we have a definition for anti-doping rules which makes reference—[*Interruption*]

**Sen. Ramlogan SC:** Yes. We have our own.

**Sen. Al-Rawi:**—to clause 26 which is the same as section 9 in Jamaica.

**Mr. Chairman:** Sen. Drayton.

**Sen. Drayton:** Just one point of clarification following up on what was just said. What if the person is a minor? Is that a delinquent or a victim?

**Sen. Ramlogan SC:** If it is a minor—

**Hon. Roberts:** Unfortunately, the minor on attaining elite status, to break it down simply, becomes—once they accept the rules of that elite level competition—they are not considered a minor. They are considered an elite athlete.

**Sen. Al-Rawi:** The minor is also treated under this Bill and in other legislation by way of consent participation—*[Interruption]*

**Hon. Roberts:** Correct.

**Sen. Al-Rawi:**—so there is a protection there.

**Hon. Roberts:** Once they consent to compete—

**Mr. Chairman:** Is it consent by the parent or the child?

**Hon. Roberts:** By the parent.

**Sen. Al-Rawi:** By parent.

**Sen. Ramlogan SC:** Bear in mind it is hardly likely you are going to be tested—*[Interruption]*

**Mr. Chairman:** Sen. Armstrong, you had another question?

**Sen. Ramlogan SC:**—unless they are running a sub 10 or something.

**Sen. Dr. Armstrong:** I am looking at 26(1) and I am not sure that it is addressing the concern that I have.

**Hon. Roberts:** 26(1).

**Sen. Al-Rawi:** That is using the definition of anti-doping rules and therefore tying into 26(1).

**Sen. Ramlogan SC:** But you see, Senators, because we have our own anti-doping rules, when we say that or when we define doping as being a violation of the doping rules, it would mean a violation of these rules. So it will be clear.

**Sen. Al-Rawi:** The rules are to be made—*[Interruption]*

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:**—and the rules will adopt mandatorily WADA as it is amended from time to time.

**Sen. Ramlogan SC:** That is right.

**Sen. Al-Rawi:** So it is a bit circuitous, but it does capture it.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** Necessarily.

**Hon. Roberts:** And just to let you know, if we get the research done properly on what we eat and how we eat, TTADO has the ability through research to change WADA's code or to increase elements on it. So if at UTT they analyze channa and they say it has some property that enhances performance, under whatever scientific tests, TTADO can relate all of their scientific information to WADA and get it put on the code.

*Question put and agreed to.*

*Clause 6 ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed:* That clause 7 stand part of the Bill.

**Sen. Al-Rawi:** If I can ask, Mr. Chairman. We have two options: we can take avail of the provisions of the Interpretation Act as it relates to corporations established in the manner that we are doing or we can specify this position. If I could say my difficulty in this—it is not a personal difficulty, it is a difficulty of concept—is whether it is appropriate to establish this thing in the way that we are doing. Can we finance it? Do we have the budget for it? Will the staff be public servants? Would we run the risk of having corporations that are sidestepped in terms of salaries and the CPO's participation? Security of tenure? That kind of situation concerns me. I do not know what the answer is. I would like to know what your thought is on this.

**Hon. Roberts:** I believe that there is a well-trying and tested convention with regard to hiring or creating of bodies through the Ministry of Public Administration, the PMCD and their rules and regulations on job specs and tenure, three-year contracts and so on, we will—all those rules will apply to provide all the necessary security.

**Sen. Al-Rawi:** They apply unless the words in the Act or Bill, as we have here, suggest something to the contrary. And in two instances we have potentially something to the contrary: one in clause 12, which suggests that the Board may fix remuneration, and one later on where the President fixes remuneration which we will clarify.

**Sen. Ramlogan SC:** Yeah. Senator, I think we can take it as we would have to treat with that as policy decisions of the Government because those things are deliberate. We all know when we add to the layers of the bureaucracy in the public service what

happens, and this is a body that is very important. One of the Government's thrusts is in the area of sports tourism, and we have an aggressive construction of many, many different stadia across the country, and we are hoping that this will assist in bringing in some international meets and competitions here. So we will have to treat that as part of our policy.

**Hon. Roberts:** I am hearing you but I also want to suggest another item where that board was left—because it was discussed—is that the kind of calibre of individuals who have gone through certain qualifications and so on, they may be, as there is in the public service now, some problems with people of high qualifications and the salary components and bands are too low.

So, if you require a doctor who finished internship, specialize and so on to come in and work, if you are offering them \$13,000 they definitely would not take it, but you may have to have a bit of flexibility to get the quality of people.

**8.30 p.m.**

**Sen. Al-Rawi:** Thank you, Minister. Conceptually the reason that we had suggested looking at Australia was specific. It makes a distinction between management via a board and using a CEO. We used in the Basel Convention, for instance, Laws of Trinidad and Tobago, UNESCO laws, et cetera, a director of an institute, as we did for instance in the DNA legislation. We fixed one person and then we gave him staff which could be pulled from the public service or otherwise. What I am trying to figure out conceptually is will this thing work?

**Hon. Roberts:** Yes, it will and the reason we did that—we discussed that, we do not want one person, whether it be the Minister, whether it be the President or a CEO, to have so much influence over the process, so the bureaucracy and the individualism and the layers are there because of the specific nature of what they are handling.

**Sen. Al-Rawi:** But what I am looking to then is the management, because the clause that we are dealing with right now deals with the powers—the establishment of the board and then the functions of it—its powers, which are very broad. We are suggesting without being specific in the clause immediately following, the issue of a board which may or may not be comprised of people on a full-time basis. Nowhere in here do we specifically say this thing is a full-time operation, this is your job, you are going to run this thing. So the presumption is that the Board will work in any other way that our current boards do, which is by part-time membership, which causes a bit of haemorrhaging in terms of state resources and inefficient ways. So my concept of looking at a director or a CEO with advisory boards came in that light.

**Hon. Roberts:** Which is a valid point, but may not need to be in the legislation, but could be considered when you are doing the management structure.

**Sen. Ramkhelawan:** Chair, I think I agree with the Attorney General that this is a matter of executive authority in terms of the construction of organization and management. We, when we make laws, our most important concern is if we do this whether there is political interference that would be adverse to operations as we questioned in FIU and we question in other areas. I do not see in this particular instance that serious damage could actually be done as with other aspects of legislation.

So, I think it is something that we could leave to the Executive and we could be here all night arguing the degrees with which we would apply the question of what should be in the public service, the domain of the public service or a board-appointed employee and the compensation thereof. So, I support what is happening, mindful of what are the implications.

**Sen. Al-Rawi:** If I could just say and I am sure it will truncate soon because I think that it is a policy decision for the Government, either yes or no, but just to say that I stoutly disagree with what Sen. Ramkhelawan has said, this is the genesis of this operation; the Board is comprised of appointments by a Minister who has direct powers, for instance, under this clause, under 2(g) to make recommendations pursuant to section 37, so I am not comfortable with what he said. Just for the record, but I will defer to the fact that it is a policy decision of the Government and you can go to a vote.

**Sen. Ramkhelawan:** Well, let me say that I am comfortable with what I said. [*Laughter and desk thumping*]

**Mr. Chairman:** We are all comfortable with it.

*Question put and agreed to.*

*Clause 7 ordered to stand part of the Bill.*

*Clause 8.*

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

**Sen. Dr. Armstrong:** Mr. Chairman, with respect to 8, I was wondering if any of these persons should be compulsory or to what extent it is discretionary? When you look at from (a) to (i), you already have nine persons and each one determines—it describes who that person should be, and then when you look at (j) it says: “any other persons”—which means that you can appoint additional persons. That does not make a lot of sense to me. Should not about four or five of these be compulsory, mandatory—



**Sen. Prescott SC:** It says no more than 11, no less than five.

**Sen. George:** But the limit of the board is 11.

**Sen. Dr. Armstrong:** So, it could be—you have a wide choice, it could be any of those.

**Sen. Ramlogan SC:** Yes, but—

**Sen. Al-Rawi:** All of them come from one—

**Sen. Ramlogan SC:** The restriction comes with the number, so if you look at the number and you back-pedal from that, from (a) to (i) you will get a fairly large percentage of them being on the Board.

**Sen. George:** Right, then you have to—*[Inaudible]*

**Sen. Dr. Armstrong:** You have all of them on the Board.

**Sen. Prescott SC:** Chair, may I repeat a question I was seeking to address earlier. If someone could tell us what informs the decision that it is the President on the advice of the Minister who should be making these appointments, and whether, assuming for the moment that that has to be so, the persons identified in (a) to (i) could not be named by the relevant professional associations where there is one. So that, for example in (a) there will certainly be one; (b) there will certainly be one; (c) and (d) and maybe (e) if you wish; (f), (g) and (h). There are professional bodies in this country—we always have to be mindful of the fact that the International Olympic Committee and WADA who comes out of the International Olympic Committee are not inclined to treat as independent, bodies that have been appointed by Governments or which have Government interference.

If we create this distance between the Government—the Cabinet—and the appointments, the appointer, we might at the very least be acknowledging the abhorrence that the IOC feels and WADA feels.

**Hon. Roberts:** Unfortunately, I will jump in there because that is a very critical point but it is a bit of misinterpretation. The IOC, just like FIFA, frowns upon any Government dealing with the administration of the sport, dealing with team selection and the activities. This, on the other hand, has nothing to do with that. This is totally different, separate and apart, this is something that is absolutely critical and, in fact, must be separated from those who are intricately involved and have conflict—

**Sen. Al-Rawi:** That is his point.

**Sen. Drayton:** “Ahem”—*[Inaudible]*

**Mr. Chairman:** Sen. Drayton.

**Sen. Prescott SC:** Minister, could you address it from the point of view of—

**Sen. Drayton:**—so that, am—oh, sorry.

**Sen. Al-Rawi:** She is finished.

**Sen. Drayton:** May I, or—

**Sen. Prescott SC:** I was merely following on—

**Sen. Ramlogan SC:** She is not finished. She is not finished.

**Sen. Prescott SC:** Yes, do forgive me. Minister, you have addressed how IOC should be looked upon, but I am saying WADA equally does not wish to have Governments tread upon the independence of the body.

**Hon. Roberts:** I am very sorry, that is not true. WADA, in fact, is the agency that is making Governments, 100 so far, commit to this. WADA is going directly to Governments and telling them put legislation—yes, WADA does not frown upon government involvement in this at all. They have to be kept separate and apart. In fact, WADA wants Governments to improve and increase budgeting for anti-doping research, for testing and so on.

**Sen. Al-Rawi:** That is a different point, hon. Minister.

**Sen. Drayton:** Just following through then with respect to the appointments of the Board, the chairman, the vice-chairman, as an alternative, may I suggest that the chairman and maybe about five or six members be appointed at the sole discretion of the President. That way we keep a distance between the political—

**Sen. Ramlogan SC:** Chair—

**Sen. Al-Rawi:** AG before you answer, just so you could get it in one comprehensive shot. Even if we leave aside the IOC and the WADA positions, let us assume that we put them aside for a moment, the fact is that this board is charged with the responsibility of managing, and it has in part some quasi-judicial functions insofar as it can make recommendations based upon legal issues brought to it which can result in clause 37 disqualification and lack of financing, et cetera.

So, from a security of tenure point of view and a position of perceived impartiality, it helps if the appointment were to be somewhat insulated and therefore that we remove the Cabinet a bit from it. It would not be a difficult thing, for instance, that the attorney-at-law is only required to have five years, and

at five years you are still a liability to yourself in law, a very low, low threshold. It would not hurt if we had the Law Association making a recommendation there or the medical board making a recommendation there. So, it is from that perspective that I hope to urge you to think about it in terms of who appoints.

**Sen. Ramlogan SC:** Chair, if I may, I think I fully understand the issues raised by my learned friends Sen. Prescott, Sen. Drayton and Sen. Al-Rawi, and I will deal with them in turn. The first issue which is a matter that always arises when we bring legislation to this Chamber is the authority for the appointment, and I have noticed that time and again when the Government brings legislation there seems to be a feeling that, perhaps, all of the appointments in the legislation should be done by an independent body as it were and in this case the President.

I want to say that that really runs counter to a very fundamental principle and philosophy of constitutional democracy. In Bermuda the Minister makes the appointment; in Jamaica the Minister makes the appointment. Indeed, in the very jurisdiction to which my learned friend Sen. Al-Rawi referred us as a model, which is Australia, the Minister makes the appointment. So, perhaps, in this particular instance we are taking a page out of the book of the Australians, but I want to say that with respect to Sen. Prescott's point that the bodies can perhaps—because yours is not that the Minister should not do it but that the bodies should do it.

I want to say, “eh”, these things they sound nice, but when you actually put them into practice, the bodies themselves have more politics involved in these bodies than the Government and the Opposition do, and sometimes these bodies they have their own problems and personalities, and sometimes you find yourself in a situation where the person the body nominates, whom you are forced to accept, is someone nobody else wants to work with, and the Minister's hands are tied and the thing malfunctions and your hands are tied because this is the body's nominee. We have been seeing that in some instances in boards and in statutory tribunals where we have had to rely on the bodies to make the appointment.

This is the Ministry of Sport and the Minister of Sport. The Minister of Sport has allocated to him the portfolio with responsibility for sport administration in the country; the organizations no doubt he will know; the organizations no doubt will have a relationship with the Ministry of Sport and there can be nothing objectionable about the Minister of Sport making appointments to a body like this in the interest of the sport, bearing in mind the important point you made earlier, that once a substance tests positive and you have a bar chart which effectively tells you, run your finger across; if it tests positive for cocaine, this is the penalty; if it tests positive for marijuana, this is the penalty. I mean, really, the function here to a certain extent is not as much as one would

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want to think when it comes to that particular harsh part of it. So, I do not for myself see that the Government's policy decision in this regard is something that great objection can be taken to.

With respect to the security of tenure, a point raised by my learned friend Sen. Al-Rawi, we have ample precedence for this. The Industrial Court, for example, judges are appointed on the advice of Cabinet; the Tax Appeal Board, judges are appointed on the advice of Cabinet; the Environmental Commission, who performs a judicial function, the judges are appointed on the advice of Cabinet; the Equal Opportunity Commission—and indeed the Privy Council has pronounced on the constitutional validity of these bodies and Cabinet appointments which are really courts of superior record.

So, I do not see that this here will run afoul of that; this is the Government's policy decision that they will give this flexibility to the Minister because we are interested in sports tourism and we want to have a grip on these things so that we can properly ensure that it is properly managed in the interest of the sport industry, and that is the Government's policy position on this matter.

**Sen. Al-Rawi:** I thank the hon. Attorney General for the explanation. Just to put on the record that the Australian position is balanced otherwise by the salaries review positions and by the public officers so that we have not quite compared apples with apples, but we will agree to disagree on the point, [*Interruption*] because once it is policy it is really down to a matter of—

**Sen. Ramlogan SC:** Good, thank you very much.

**Mr. Chairman:** Sen. Dr. Armstrong.

**Sen. Dr. Armstrong:** I am still a little concerned, Chairman. Can the Minister appoint in consultation with or the advice of, and here I am a little concerned, what about the THA? We have a lot of athletes coming out of Tobago that, you know—if it is just the Minister here should he not consult, liaise or—

**Sen. Ramlogan SC:** You really do not have to put that in, he would consult.

**Sen. George:** Chair, I just want to make a point here, you see the only permanent person in this is the Minister. You see if you go to these bodies, these so-called independent bodies there could always be fractures, you know. Look at the NCBA for example, I am just using the NCBA, they have a body that supposedly represents the carnival bands or the people who own the bands, but there is a group that is broken out from them that says they do not really represent us; we want to speak for ourselves, and you could find—[*Interruption*]—so I am saying the only permanence that we have is

the Minister. Let us deal with the permanence and let us leave out the possibility of all these fractures of these organizations creating problems for us down the road; and that is the point I would like to make.

**8.45 p.m.**

**Sen. Ramlogan SC:** Not only that, you know, Chair. In many of these organizations, the minute you have a little bacchanal there is a faction that “break away” and form a rival organization. So that when you legislate to say consult with a particular organization, and “it have” three others that you leave out, they will accuse the Government of the same political bias that you all are trying to prevent, because we opt for one and not the other. Take for example, car racing. You have four bodies. You go down the road, you may have more than one, and if you do not have more than one now, that does not mean more than one would not occur in the future. But what you would be doing is creating a monopoly on the organization that you are putting in the legislation with respect to this.

So, I think it is better to leave it. I think the Minister as a matter of course, will have to consult and collaborate, and that much obviously will have to take place. But to put it in the law, I do not think it is necessary to put that in the legislation.

**Sen. Prescott SC:** Mr. Chairman, Ministers do not do what they do not have to do, and unless the legislation tells them what to do, they would not necessarily do it, but that is not the point I am intervening on. It would be trivializing the work and the presence of professional bodies which have been created by legislation such as the Law Association, bodies which the statutes take notice of, like the Medical Council, et cetera, if one were to seek to compare them with the NCBA. I am saying let us call upon those bodies to make a nomination. The Law Association, I cannot imagine that it would become fractured unless the legislation ceases to exist.

**Sen. Al-Rawi:** Correct

**Sen. Prescott SC:** What does it take for Government to look again at its insistence that all of this must come from one voice, that of the Minister? We do not ask that you give up the power to govern. You have called upon a body such as the Law Association—I think the Tobago House of Assembly is a good suggestion. It is there by statute, it has certain functions to perform. Okay, so it sends you a “chongo”, but that is what you have to deal with. We are going to get “chongos” coming out of the Minister’s head anyway.

**Sen. Cudjoe:** I want to—

**Mr. Chairman:** Prof. Ramkissoon.

**Sen. Prof. Ramkissoon:** Mr. Chair, I am following the arguments put forward by the AG, but I am still not convinced that we cannot go for a mix. I am worried the perception that you are going to create is that this body is a purely political body. That is going to be the perception and I cannot see why we cannot have a mix—some nominated by some of these professional sporting bodies, and some by the President.

**Sen. Ramlogan SC:** Well, what do you say that—which one? You see, when I answered the question Sen. Prescott, I dealt with the sporting bodies. I mean the problem—and you are dealing with sporting bodies again, the Law Association and the Medical Council is fine. Those are bodies that are established by statute. I did not address them, I addressed the sporting bodies. But you see, outside of the Medical Council and the Law Association, there is no legislation to legislate for any other particular sporting organization or body really. [*Interruption*]

**Hon. Senator:** [*Inaudible*]

**Sen. Ramlogan SC:** Well who are the three?

**Sen. Prescott SC:** The THA, the Law Association and the Medical Council.

**Mr. Chairman:** Sen. Cudjoe you had a statement. No?

**Sen. Cudjoe:** I am seeing the Minister here saying no problem to the THA. You see, in the Tobago House of Assembly Act, the Tobago House of Assembly is responsible for sports in Tobago, and when you look at the functions of the bodies that are being created in this legislation, they are being asked to provide advice and to treat with sporting groups, sporting gyms, fitness centres and so on. If you do not have somebody from the Assembly, probably the Division of Sport doing that kind of work in Tobago, then you leave us hanging like in so much other legislation.

**Hon. Roberts:** No problem—take a recommendation from, based on these definitions, from the THA, from the Law Association, one from—[*Interruption*]

**Sen. Ramlogan SC:** Well you see, Chairman, the problem here is this, once you go down that road, I mean you look at “(g)...financial accounting”—ACCA has a body. You have Human Resources Management, I do not know if they have an organization, they do I am told. I am seeing—HR Management, the Law Association, right, fine, and you go down the road. I mean, look, this is—[*Crosstalk*] At the end of the day, the Government as a matter of policy wants to have a certain measure of control in the appointment of this Board, having regard to the disciplines that are set out in the law, and we see nothing objectionable about that.

The Government appoints the judges to the Industrial Court through the Cabinet on the advice to the President, the Environmental Commission, the Equal Opportunity Commission and they perform a much weightier function than this, you know.

**Sen. Moore:** And I want to add that, even the statutory bodies, the Law Association, et cetera—remember their primary function is not to assist in matters such as this. They have been set up for a totally different reason and it is because of that, that they have their own sphere of operation that they are often very delayed in nominating their people or selecting their people for service on these appurtenant bodies, and it has been causing severe problems. So that I want to signal that, that this is really not a magic bullet because these organizations have their own people to regulate.

**Sen. Ramlogan SC:** And politics.

**Sen. Moore:** I do not even want to get into the politics. They have a reason for being that has nothing to do with sport, laudable though their involvement in it might be. In addition to which, when we expand the ambit and the remit of these statutory bodies, we assume that they have people that will populate all these boards we want them to be represented on. Remember, in the case of the Law Association, the executive is pulled from a small pool, there are not unlimited lawyers—there are problems getting people to serve on the executive and this executive is stretched when you put their members here, there and everywhere, and they have primary duties to perform. So I want to telegraph that, that it has been a problem in other areas where they have been, and bodies like them have been asked to be represented.

**Sen. Prescott SC:** May I suggest, then Minister, that perhaps consultation might be a way to go. Instead of the legislation simply saying “nominated by”, I am assuming for the moment that you are right, should the Minister at the very least be required to consult with these bodies on a possible nomination?

**Hon. Roberts:** No problem, I will consult with that.

**Sen. Cudjoe:** Except for the THA though. I think that the sporting division, the Division of Sports—I do not understand, why would the Government argue against having Tobago House of Assembly representation on a board or a body that treats with matters that are under the remit of the Tobago House of Assembly. [*Interruption*]

**Hon. Roberts:** No problem whatsoever.

**Sen. Cudjoe:** The Minister is saying, “no problem”, so I think—[*Interruption*] I am happy with it.

**Sen. Moore:** Let me inject into that, I mean subject to the Minister. The issue with, if it is an issue, but what I have noticed with regard to that particular organization, an organization for which I have the utmost respect, is that we see the same name on every single—on a disproportionate amount of the bodies that the THA is asked to send a representative, they send one person. The same person recurs, recurs. It is only one person in the THA—*[Interruption]*

**Sen. Al-Rawi:** Minister.

**Sen. Moore:** I am not finished. That, in and of itself, is cause for concern. Now, that is something for the internal regulation of the THA. However, it may reference the problem that I referred to earlier, that these bodies have a different remit and they are being pressed for human resources to populate these other bodies for which—not that they do not have a business, not that they do not have an interest, but it is not their reason for being. I say that with the greatest of respect to the Law Association, the Medical Board and of course the THA, we would want to flag that.

**Sen. Al-Rawi:** Minister, if we look at it from a classic veil of justice point of view, a veil of ignorance, it could only help the administration of this body to have consultation or nomination by the bodies, and I do not necessarily agree with you on the Law Association’s approach as an active member. *[Crosstalk]*

**Mr. Chairman:** Sen. Armstrong.

**Sen. Ramlogan SC:** Senator, if I may preempt you to see whether this might help allay the concerns raised, including yours.

**Sen. Al-Rawi:** Go ahead.

**Sen. Ramlogan SC:** If we insert:

“The Board shall comprise a Chairman, a Vice-Chairman and not less than five nor more than eleven other members, all of whom shall be appointed by the President on the advice of the Minister...”

And after that I insert:

“on the advice of the Minister, in consultation with the relevant professional bodies”—*[Interruption]*

**Hon. Senator:** Um-hmm, go ahead.

**Sen. Ramlogan SC:** Right:

“from among the following persons:”.



On the THA matter which you are so passionate about, we will put in at:

“(e)...former sports administrator who has served in that capacity for at least four years nominated by the THA;”.

**Sen. Dr. Armstrong:** That is fine with me.

**Sen. Ramlogan SC:** That is all right.

**Mr. Chairman:** Which letter is that?

**Sen. Ramlogan SC:** “(e)”.

**Mr. Chairman:**—“(e) a former...who has served in that capacity for at least four years”.

**Sen. Prescott SC:** Do you have to define who that person should be?

**Sen. Hinds:** AG, AG.

**Sen. Prescott SC:** Do you have to define who it is?

**Sen. Hinds:** No, but AG—

**Sen. Ramlogan SC:** Not necessarily.

**Sen. Prescott SC:** Okay.

**Hon. Roberts:** Well, we also do not want to change the overall composition.

**Sen. Prescott SC:** But you have two discretionary positions anyhow.

**Sen. Hinds:** Yeah, but AG, I think I understood Sen. Cudjoe to be saying, that since the THA has responsibility for management of sport on that island, it should come from the THA.

**Sen. Ramlogan SC:** That is what we said. But we said that.

**Sen. Hinds:** What did you say?

**Sen. Ramlogan SC:** I said nominated by the THA.

**Sen. Hinds:** A sports administrator nominated by the THA?

**Sen. Ramlogan SC:** Yes.

**Sen. Hinds:** Does that necessarily mean someone from the THA?

**Sen. Ramlogan SC:** No, no, it cannot be someone from the THA. No, no, no.

**Sen. Hinds:** A nomination from the THA, by the THA? Okay, fair enough.

**Hon. Senator:** Maybe you want to limit it to sports administration.

**Sen. Ramlogan SC:** Yeah, yeah. I think the issue here, Sen. Armstrong seems to prefer that we should put a separate, like a new “(i)” or “(k)” or “(i)” before the “(j)” to say, “a representative” “a nominee, a person nominated by the THA with sporting experience” or something I suppose.

**Sen. Hinds:** Yeah, yeah.

**Sen. Ramlogan SC:** Yes? “a person nominated by the THA with sporting experience”. With sporting experience or experience with sport?

**Hon. Roberts:** No problem. I am just describing the balance of expertise.

**Sen. Ramlogan SC:** That is fine? Okay, good.

**Sen. Al-Rawi:** Maybe you can consider in the existing (j):

“any other persons who by virtue of their skill or experience can contribute meaningfully to the work of the Board including at least one nominee from the THA.”

I do not know if it could work there?

**Sen. Ramlogan SC:** Six in one, half dozen in the other. Let us go with a separate insertion.

**Mr. Chairman:** I think the THA would be happier with a separate.

**Sen. Ramlogan SC:** I think so. All right, let us put—

**Sen. Chairman:** So that will be a new “(j)” is it, and “(j)” will become “(k)”?

**Sen. Ramlogan SC:** That is correct and “(j)” will become “(k)”. That is right, and “(k)” will have to change “persons” to “person” to make the 11.

**Hon. Roberts:** Take out the plural.

**Sen. Ramlogan SC:** “Any other person” not “persons”. [*Crosstalk*] All right let us go guys.

**Sen. Al-Rawi:** That is why you have a deminimis and a de maximis. If they do not send somebody, they are out.

**Mr. Chairman:** But then the “their” would have to change as well.

**Sen. Ramlogan SC:** Yes, yes.

**Mr. Chairman:** “His or her skills”.

**Sen. Ramlogan SC:** Yes, or “his”.

**Mr. Chairman:** “His”, all right we will take the—[*Crosstalk*]

**Sen. Ramlogan SC:** “His” includes “her” under the interpretation.

**Mr. Chairman:** Senators, the question is that clause 8(2) be amended by insertion after the word “Minister” in line four, the following words:

“in consultation with the relevant professional bodies” and that an additional new “(j)” be inserted after the“(i)”: in terms that “a person nominated by the THA with sporting experience”.

And then what was “(j)” will become “(k)” and it would be singular so:

“Any other person who by virtue of his skill or experience can contribute meaningfully to the work of the Board.”

**Mr. Chairman:** The question is that clause 8—

**Sen. Prescott SC:** Mr. Chair, may I make an enquiry, please?

**Mr. Chairman:** Sorry.

**Sen. Prescott SC:** If we could just look again at 8(2), where it speaks of the composition:

“persons...all of whom shall be appointed by the President...from among the following:”

That format of the language did not insist that each of these must be on the Board. So that for example—[*Interruption*]

**Sen. Ramlogan SC:** But it is five to 11 persons, you know.

**9.00 p.m.**

**Sen. Prescott SC:** Yes, but we seem to be approaching it as saying—but each of these categories must have a representative among those 11. That is why we had said “a person” at the end, because we think that there is only room for one more. But you may have a former sport administrator who is a former coach, who has qualifications in marketing and you would have satisfied three categories.

**Sen. Singh:** Then you are choosing three categories.

**Sen. Hinds:** No.

**Sen. Prescott SC:** So rather than make it appear that these are compulsory presences on the Board—

**Sen. Hinds:** Five other members.

**Sen. Prescott SC:**—do not change (j) to say any other person. You may choose your 11 from among all these—

**Mr. Chairman:** Ohh, I see what you mean.

**Sen. Prescott SC:** You do. Oh, I am grateful.

**Hon. Senator:** No problem.

**Mr. Chairman:** All right. So that the (k)—

**Sen. Ramlogan SC:** Chair, just one final point. What if we say “in consultation with the relevant professional bodies”, does that take into account where no professional body is in existence or more than one is in existence?

**Sen. Prescott SC:** Professional.

**Sen. Baptiste-Mc Knight:** Any.

**Sen. Prescott SC:** No, the chances are a professional body will only be one.

**Sen. Al-Rawi:** Professional bodies are usually one but—

**Sen. Prescott SC:** It should only be one. You are still focusing on the sporting bodies.

**Sen. Ramlogan SC:** “In consultation with relevant sporting bodies”, “eh”.

**Hon. Senator:** No, no, no.

**Sen. Prescott SC:** No, we are saying professional bodies. If your focus is sporting you will be—

**Sen. Ramlogan SC:** So the professional would exclude the sporting.

**Sen. Prescott SC:** Yes.

**Sen. Ramlogan SC:** Okay, fair enough. “In consultation with relevant professional bodies” and that would exclude the sporting ones.

**Sen. Prescott SC:** That is right.

**Sen. Ramlogan SC:** It excludes the sporting organizations.

**Sen. Prescott SC:** “That’s right.”

**Hon. Roberts:**—and professional bodies.

**Sen. Chairman:** So the question is that clause 8 be amended in the manner first read out, save for (k) which would read:

“any other persons who by virtue of their skill or experience can contribute meaningfully to the board”.

*Question agreed to.*

**Mr. Chairman:** The question is that clause 8 as amended now stand part of the Bill. *[Interruption]*

**Sen. Baptiste-Mc Knight:** Subclauses (3), (4), (5), (6).

**Sen. Al-Rawi:** Mr. Chairman, we have several subclauses to go. Could I enquire before we move to subclause (3) which has a bit of an issue there. Is it envisaged, for the sake of the record, hon. Minister, that the management by the Board will be on a full-time basis or part-time basis?

**Hon. Roberts:** Part-time.

**Sen. Al-Rawi:** Part-time.

**Hon. Senator:** They will meet once a month.

**Sen. Al-Rawi:** My question in this position is again to the efficacy of this method. Management is a serious responsibility which is very different from what directors normally do on boards. Directors, in fact, do not manage at all, they just deal with policy decisions. How are we going to manage something with a part-time board of the scope that is required here?

**Sen. Ramlogan SC:** This is not going to result in 10,000 athletes being tested per week. This board may end up, you know, when you have a competition or a meet and so on, you know, that they will have a little spike in the work. But really, it is not a board that will have work on a daily basis per se.

**Sen. Al-Rawi:** What I was looking at more was the liability in the event of something happening. Not so much the work that is put on them. I agree with you that it may be a bit slow.

**Sen. Ramlogan SC:** But the State will be liable. You know—

**Sen. Al-Rawi:** AG, you are actually suing several boards right now where the State is not liable. So the State—*[Interruption]*

**Sen. Ramlogan SC:** No, no, no, this is different. This is a body corporate.

**Sen. Al-Rawi:** Yes, so too is Petrotrin or—

**Hon. Roberts:** *[Inaudible]*

**Sen. Al-Rawi:** No, no, I am being serious about the point. I am really looking at the liability of the members that serve, because you want people of quality to serve.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** So, I am wondering, are they going into a difficulty because they are being tasked with the responsibility to manage.

**Hon. Roberts:** No, I understand your point. But, with this, where WADA is the overall governing body, the strictures and the rules and the regulations and the processes have been dictated. So they just need to have an oversight role.

The various levels, the TUEC—WADA has a specific code, all the Board has to do is make sure that the five people of nine people there have read this, understand it and from time to time when there is testing going on, ensure that they observe and make sure that all the processes or procedures have been put. So they are more of an oversight body.

**Sen. Al-Rawi:** Hon. Minister, thank you there. Sorry to cut in. I looked at, for instance, other state corporations. I looked at HDC, I looked at a number of other bodies. Where we have the utilization of a board, a mixed board, a broad board like this, we have always had the facility of a managing director who does the management of the corporation, runs the day-to-day staff and then we segregate the Board out, so that policy decisions, and decisions of the Board, are kept sterile. That is my concern inside of here.

**Hon. Roberts:** That may happen. That may happen when the organizational structure is determined by the Cabinet, the Ministry of Public Administration and the PMCD.

**Sen. Al-Rawi:** The problem is the use in the parent legislation of a concept of management by the Board as opposed to creating in the parent legislation a managing director who manages. If you look at the HDC Board, for instance, that Act itself. We have a board, it has powers and functions similar to this type but albeit in housing, but we create a post of a managing director specifically to do that. And like my—

**Hon. Roberts:** What amendment would you suggest to do it?

**Sen. Ramlogan SC:** What word would you prefer instead of manage?

**Sen. Al-Rawi:** Well, you see, what I am discussing potentially involves the creation of a post of a managing director.

**Sen. Ramlogan SC:** We do not agree with that. We think that as a matter of practical administration, when we flesh out the organization, there is bound to be someone appointed to be in charge of the day-to-day administration of the matter.

**Sen. Al-Rawi:** But the liability AG.

**Sen. Ramlogan SC:** With respect to the liability issue, we will have to agree to disagree on that.

**Sen. Al-Rawi:** So, you are comfortable with a board meeting once a month—  
[*Interruption*]

**Sen. Ramlogan SC:** Yeah, yeah.

**Sen. Al-Rawi:**—managing an entity and taking the liability for it.

**Sen. Ramlogan SC:** Because this is an entity of a—it is not an entity of a kind where you envisage the kind of work that one would have—

**Sen. Al-Rawi:** When we were having Caribbean Games in Trinidad which were cancelled, we had thousands of athletes coming in and spikes which are of a serious nature.

**Sen. Ramlogan SC:** No, we are comfortable with this. We are.

**Sen. Al-Rawi:** I am not.

**Mr. Chairman:** The question is that clause 8, as amended, now stand part of the Bill.

**Sen. Al-Rawi:** No, Mr. Chairman, then we go to subclause (3). I was dealing with “management” on subclause 8(1).

**Mr. Chairman:** I am dealing with the whole of clause 8, so if you want the amendments—

**Sen. Al-Rawi:** I thought I had made it clear earlier when I said there were several subclauses. I apologize.

**Mr. Chairman:** And there are. I am referring to the entire clause.

**Sen. Al-Rawi:** Well then I am coming to subclause (3) and then I will go to (4), (5) and then (6), with your leave of course.

Mr. Chairman, relative to subclause (3), “on such terms and conditions as are determined by the President”, if the hon. Minister could assist me with a thought behind that or how it is to work, my concern is: is it really the President’s role to do that? Is it in keeping? I am not quite sure what the answer is.

**Sen. Ramlogan SC:** What would you prefer?

**Sen. Al-Rawi:** No, I am not sure what the answer is. If it is in keeping with other pieces of legislation, I would be okay. But, I just want to understand, it is the first time that I have seen terms and conditions being fixed by the President of the Republic.

**Sen. Ramlogan SC:** Well, we can change that to read Minister and that will solve the problem raised by my learned friend.

**Sen. Al-Rawi:** And that would bring in the public service and guidelines.

**Sen. Ramlogan SC:** Sure. All right. Terms and conditions as are determined by the Minister.

**Sen. Al-Rawi:** Is it in keeping with your thought?—is what I want to know.

**Hon. Roberts:** Yes.

**Sen. Ramlogan SC:** Yeah, that is fine.

**Sen. George:** Yeah, that is good.

**Sen. Ramlogan SC:** So we change “President” to “Minister”. Do you want to make that change throughout the rest of the clause as in (4) and so on?

**Sen. Al-Rawi:** No, because (4), the President—well, I do not know. The Minister can publish is probably an easier thing to do.

**Sen. Ramlogan SC:** Yes, so we change in (4) “President” to “Minister” as well as. And in (6) as well?

**Hon. Senator:** Yes.

**Sen. Ramlogan SC:** Yes, that is fine.

**Sen. Al-Rawi:** Not sure about (6), AG.

**Hon. Senator:** Yes, fair enough.

**Sen. Ramlogan SC:** Oh, yeah, subclause (6) sorry, yes.

**Sen. Al-Rawi:** Subclause (6) I would probably leave as it is.

**Hon. Roberts:** Please do, I would leave it so.

**Sen. Al-Rawi:** The AG was being so smooth that he went quickly there.

**Hon. Roberts:** No, no, no. In fact, to be fair it was the Minister—the original draft had Minister there.

**Sen. Ramlogan SC:** I think Sen. Bernard caught on to me there. [*Laughter and crosstalk*] Well, those are the changes, Sir.



**Mr. Chairman:** Any other?

**Sen. George:** What about any change of President in subclause (7)? Check (7). Do we want the resignation?

**Sen. Ramlogan SC:** Yeah, that is fine, that is fine.

**Sen. George:** That is fine, the President?

**Sen. Al-Rawi:** Yes.

**Sen. Ramlogan SC:** Yes, because he terminates. So, that is it, Chair.

**Mr. Chairman:** Well, I am going to go through the amendments.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, (5).

**Mr. Chairman:** Subclause.

**Sen. Baptiste-Mc Knight:** Subclause (5) to change “four” to “seven years”.

**Sen. Al-Rawi:** That is kind of long.

**Sen. Ramlogan SC:** “Nah,” we will stick with four. That is kind of long.

**Hon. Roberts:** We thought about it but the four is there to kind of keep in sync with the quadrennial and the four-year Olympics.

**Sen. Al-Rawi:** And they are liable to reappointment as well.

**Sen. Ramlogan SC:** Is every four years Olympics and World Cup and—

**Mr. Chairman:** I will go through the proposed amendments to clause 8: in subclause (2) in line 4 after the word “Minister” insert—

**Sen. Prescott SC:** After the comma please, Chair.

**Mr. Chairman:** After the comma which appears after the word “Minister”. In line 4, insert the words, “in consultation with the relevant professional bodies”, the introduction of a new clause (j), which reads, “a person nominated by the THA with sporting experience.”

I suppose we need to take out the “and” after (i) as well and we will put it in after the new (j). And (k) will read “any other persons who by virtue of their skill or experience can contribute meaningfully to the Board”. It remains as it was.

In subclause (3), replace the word “President” by “Minister”; likewise in subclause (4).

**Sen. Al-Rawi:** No, Sir. Or, yes, Sir. Yes, yes, yes. Likewise in subclause (4)—

**Mr. Chairman:** The question is that clause 8 as amended now stands part of the Bill.

**Sen. Al-Rawi:** On the other page we had subclauses (9) and (10). I had a question in relation to subclause (10). So (9) says, “Where any member of the Board is temporarily”, you can have an alternate appointed for such period of illness or incapacity, then (10) says:

“The appointment of a person as a member of the Board to fill a vacancy occurring under subsections (6), (7) or (8), shall be for the unexpired portion of the term of the member to whose office that person has been appointed and such a person is illegible for reappointment.”—(6),(7) and (8).

**Sen. Ramlogan SC:** Subclauses (6), (7) and (8) are permanent vacancies.

**Sen. Al-Rawi:** I see, so it is meant to be for permanent. Okay. Thanks. Thank you for that indulgence.

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clause 9.*

*Question proposed:* That clause 9 stand part of the Bill.

**Sen. Prescott SC:** In relation to clause 9(2), I ask that we have a look at it once again. Who are the persons who shall attest to the seal? Is it one of three, or the Secretary is compulsory?

**Sen. Ramlogan SC:** The Secretary and one other person who could be—

**Sen. Prescott SC:** The Secretary and one.

**Sen. Ramlogan SC:**—any other member of the Board.

**Sen. Prescott SC:** So the Secretary and one of?

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:** Yes?

**Sen. Ramlogan SC:** Yeah.

**Sen. Prescott SC:** Those words should appear there?

**Sen. Ramlogan SC:** Well, I understood it to mean the Secretary and the Chairman or a member of the Board. The Secretary is the must.

**Sen. Prescott SC:** What about Secretary and either?

**Sen. Ramlogan SC:** So the Secretary is a must and the other person could be the Chairman or another member of the Board.

**Sen. Singh:** The Secretary and the Chairman.

**Sen. Prescott SC:** As it stands now, it says the Secretary and the Chairman.

**Hon. Roberts:** Put a comma after—

**Sen. Prescott SC:** That is one group or a member of the Board is another group. If we say the Secretary and either the Chairman or a member—

**Sen. Ramlogan SC:** Okay, tell us the punctuation. How you want us to—

**Sen. Prescott SC:** I recommend that it says, “shall be attested by the signature of the Secretary and either the Chairman or a member”.

**Sen. Ramlogan SC:** Right, “and either the Chairman or a member”. You want any semicolon, anything to go with that?

**Sen. Prescott SC:** I could throw a few in if you wish. [*Laughter*]

**Mr. Chairman:** The question is that clause 9 subclause (2) be amended in line 2, by inserting the word “either” after the word “and” in line 2.

*Question put and agreed to.*

**Mr. Chairman:** The question is that clause 9 as amended now stand part of the Bill.

**Sen. Prescott SC:** Before we commit, is 9(3) not subject to the same deficiency?

**Sen. Al-Rawi:** No, because it is any one of them.

**Sen. Ramlogan SC:** Yeah, it is any one of them.

**Sen. Prescott SC:** Under the hand of the Chair.

**Sen. Ramlogan SC:** Any one.

**Sen. Prescott SC:** “...all decisions of the Board shall be signified under the hand of the Chair...”

**Mr. Chairman:** Is only one of all three.

**Sen. Prescott SC:** Thank you very much.

**Sen. Ramlogan SC:** Only one. That is fine.

**Hon. Senator:** Or the Secretary or the member.

**Sen. Prescott SC:** Thank you.

*Question put and agreed to.*

*Clause 9, as amended, ordered to stand part of the Bill.*

*Clause 10.*

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

**Sen. Al-Rawi:** Mr. Chairman, again, I wonder as to the suitability of a board supervising administrative operations of the TTADO when it meets once a month and also ensuring that correct protocols are followed in the process of securing samples when they meet once a month.

I just for the life of me cannot fathom a fellow from Tobago who is on the Board who comes in for one meeting supervising a urine sample put into container A and B. I wonder if we are not putting him into some degree of difficulty.

**Hon. Roberts:** No, no, no. The Board does not do that part at all, at all, at all. What the Board does is ensure that the doping control committee, or if there is a competition—once all of the requisite groups have the knowledge that the Board, a member thereof, just like if there is a boxing match going on, one member of the boxing board has to be present to ensure that the doctor is there, that the rules are carried.

So, the board members do not touch samples, do not deal with the process, those other levels coming down deal with that.

**Sen. Al-Rawi:** And in relation to the supervision of administrative operations?

**Hon. Roberts:** So, if the function is going on, if the testing body, the doping control sets up in the Hasely Crawford Stadium, in the VIP area and that is their office, an official, one official must go and ensure they have the cubicles correct, that the equipment is in the right place, that they have their forms and so on.

**Sen. Al-Rawi:** See, Minister, what I am looking at is a very legal point of view. Forgive me. I am looking at liability management. Somebody comes and says, well hold on, John Brown who is a member of this board, there was an incident, he had an obligation equivalent to section 99 of the Companies Act, he was in breach of his fiduciary responsibilities to supervise X, the equivalent of that is clause 10, which says, he should have supervised the administrative operations and he failed to do that.

You see, because we are co-mingling management with the traditional role of a board and management is never included in a board's responsibilities ever. I am sure the President, could bear me out on that. That is where my fear is.

**Hon. Roberts:** Ensure that the information or current protocols are disseminated to those with the responsibility or words to that effect. So where I am getting is, their job is to say this is TUEC. TUEC this is the code and the protocols you must follow from WADA and give each member. Once they have done that, once they have provided the information, that is their role.

**9.15 p.m.**

**Sen. Oudit:** Mr. Chairman, most of the other legislation, instead of saying "supervise the administration", they indicate the words "monitor the administrative operations". I do not know if that would make—

**Sen. Al-Rawi:** That would help.

**Sen. Ramlogan SC:** Yeah, that will help. I was about—*[Interruption]*

**Sen. Oudit:** Yeah, rather than "supervise" which goes to the operations side.

**Sen. Ramlogan SC:** So we can change "supervise" to "monitor".

**Hon. Roberts:** "Monitor", okay. Yeah, "monitor" is better.

**Sen. Ramlogan SC:** Yeah, good point, Sen. Oudit.

**Hon. Roberts:** No, Al-Rawi too. *[Laughter]*

**Sen. Ramlogan SC:** No, she came up with the word "monitor", not him.

**Hon. Roberts:** Yeah, but it was his idea, his concept. *[Laughter]*

**Sen. Al-Rawi:** Can I just ask, just thinking aloud, please bear with me. *[Crosstalk]* AG, he has not learned to martial me just yet, permit him "ah li'l slack".

**Sen. Ramlogan SC:** "He go learn, doh worry." *[Laughter]*

**Sen. Al-Rawi:** But I am looking at the liability management, the words "supervise", "ensure", "ensure", "assist", could we put "shall monitor" stripe—I do not know, I am asking aloud.

**Sen. Ramlogan SC:** Chair, the problem here is this: Sen. Al-Rawi's point, which I grasp fully, is a concern for liability management and to minimize risk exposure. If board members are negligent or in breach of their fiduciary duties, they can be sued in any event, but if there is any liability issue that arises outside of the negligence of the

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Board or in breach of the fiduciary duty, but in the normal course of their performance of their duties, there will be vicarious liability attaching to the body corporate. So that the liability issues to which he has adverted may not necessarily arise in this case.

So, to be honest, even if you replace “supervise” with “monitor”, the same argument could arise that if you did not monitor it properly and something happens—

**Mr. Chairman:** As I understand it, a board is required to put arrangements in place when these things take place.

**Sen. Ramlogan SC:** Indeed! That is right.

**Mr. Chairman:** If you want, you could say “the Board shall make arrangements to—monitor, ensure, assist”.

**Sen. Ramlogan SC:** Yes, we can do that. That is fine. We can put that and that should be fine. Faris?

**Sen. Hinds:** What is that?

**Sen. Ramlogan SC:** “The Board shall put in place arrangements—”

**Mr. Chairman:** That it shall make arrangements to—

**Sen. Ramlogan SC:** “The board shall make arrangements to—” [*Crosstalk*] Well, all the rest will follow. We can leave “supervise”, “yuh doh need to change it if yuh put it like that”. That is fine.

**Sen. Al-Rawi:** That would allow it—to allow its staff to do it in terms of a delegated point.

**Sen. Ramlogan SC:** Good. Sure!

**Mr. Chairman:** Yes, that is what I understand.

**Sen. Al-Rawi:** Yeah, thank you.

**Mr. Chairman:** So are we leaving “supervise”?

**Sen. Prescott SC:** May I just arrive at it slowly, “yuh say is what? “The Board shall make arrangements to supervise”?

**Sen. Ramlogan SC:** Yeah.

**Mr. Chairman:** Well, it is really for the supervision of.

**Sen. Ramlogan SC:** For the supervision of.

**Sen. Hinds:** Facilitate.

**Mr. Chairman:** And therefore it will become “ensuring” and “assisting”.

**Sen. Prescott SC:** For ensuring, for assisting, yeah, thank you.

**Sen. Ramlogan SC:** “Yuh ah real grammar police, boy!”

**Sen. Prescott SC:** Eh? Say that again.

**Sen. Ramlogan SC:** “Ah good grammar police!” [*Laughter*]

**Sen. Prescott SC:** “Ah know I didn’ hear yuh, yuh know.”

**Sen. Ramlogan SC:** No, I meant it as a compliment! It is a compliment, Sen. Prescott.

**Mr. Chairman:** In (d), it will become “assisting in ensuring”. I am just wondering if it should be “ensuring”, if you change the chapeau, as my friend would have said. [*Laughter*]

**Sen. Ramlogan SC:** Yeah, sure.

**Mr. Chairman:** So shall I read that to see if people are satisfied with it?

“The Board shall make arrangements—

- (a) for the supervision of the administrative operations of TTADO;
- (b) ensuring that correct protocols are followed in the process of securing samples;
- (c) ensuring that the rights of everyone involved in the doping control procedures are respected;
- (d) ensuring that TTADO receives and manages funds in a prudent manner; and
- (e) undertaking anything incidental or conducive to the performance of any of the foregoing functions.”

*Question put and agreed to.*

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

*Clause 11.*

*Question proposed:* That clause 11 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, my enquiry with respect to clause 11 was raising emergency meetings where necessary because the Chairman—

“The Board shall meet as often as the Chairman deems necessary for the performance of its functions...”

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—and then we provide for quorum if the Chairman is absent who shall provide, et cetera. The convening of emergency meetings may be necessary and ought to be by the—we have used it in other pieces of legislation where any member can write to the secretary or have the secretary convene a meeting.

**Sen. Ramlogan SC:** “Yuh doh need to legislate that, but yuh know—”

**Sen. Al-Rawi:** Because the Interpretation Act under statutory corporations provide for it, if your team checks it, I will be okay with that.

**Sen. Ramlogan SC:** No, but I do not think you need to provide for it at all. I mean the Board should—you could quite frankly take off the Chairman and simply say:

“The Board shall meet as often as necessary for the performance of its functions...”

**Sen. Al-Rawi:** That would be better. My problem was the limitation of the Chairman.

**Sen. Ramlogan SC:** Yeah, I agree, the limitation of the Chairman, so we will take off that. We will say:

“The Board shall meet as often as necessary for the performance of its functions and in any event not less than once every month.”

**Sen. Al-Rawi:** Excellent! That is correct!

**Sen. Ramlogan SC:** Okay, Christlyn?

**Sen. Moore:** Yeah.

**Mr. Chairman:** So the question is that clause 11(1) be amended by deleting the words “...the Chairman deems...” in lines 1 and 2.

*Question put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clause 12.*

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

**Sen. Dr. Armstrong:** I do not have a solution to the query that I am going to raise, but I was wondering whether this is a bit open-ended, this business of the Board may on such terms—[*Crosstalk*] Oh, sorry, I am sorry. Clause 12(2), I do not have a solution really, but I am wondering whether it is not open-ended where it says in 12(2):

“The Board may, on such terms and conditions as it thinks fit, engage on contract any suitably qualified...”



—and it goes on. Is not that sort of open-ended in that—is there some way that that can be qualified, that there could be some structure that is approved? I was just wondering, so it does not become a sort of an employment agency.

**Sen. Moore:** Well, I see the mischief that you envisage, but is it that you are suggesting that you see a possibility that they will hire rocket scientists?

**Sen. Dr. Armstrong:** Yeah, “yuh could create, yuh know”—or you can create jobs or positions that you do not necessarily need.

**Sen. Moore:** Well yes, but, I do not know that there is any board that is constrained from hiring on contract as it deems fit.

**Sen. Dr. Armstrong:** Okay, fine.

**Sen. Moore:** You will just have to trust the integrity of—*[Interruption]*

**Sen. Dr. Armstrong:** Of the Board.

**Sen. Moore:**—of the persons who are appointed.

**Sen. Dr. Armstrong:** Okay, all right.

**Hon. Roberts:** This is very important.

**Sen. Al-Rawi:** That is the interpretation that I had.

**Sen. Dr. Armstrong:** I can live with it.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, please.

**Mr. Chairman:** Sorry, Sen. Baptiste-Mc Knight.

**Sen. Baptiste-Mc Knight:** The matter of the Board shall employ such members of staff, I thought that the—the sense that I was getting was that these would be public servants, whether they are on contract through PM-whatever or else. This is the sense that I was getting from the discussion earlier today, in which case, it is not a matter of the Board shall employ, the Board shall be provided such members of staff as are required.

**Sen. Prescott SC:** Is not this a statutory body like NLCB?

**Hon. Roberts:** There may be a case where you reach the Court of Arbitration for Sport and TTADO has to get a senior counsel or something.

**Sen. Baptiste-Mc Knight:** That is 12(2), I am talking about 12(1)—with normal staff.

**Sen. Prescott SC:** May I assist? Is not this a board—a statutory body in the same way that the NLCB or any other—

**Sen. Al-Rawi:** Yes, it is.

**Sen. Prescott SC:**—so that they may now come under the Statutory Authorities Service Commission or something? I do not know—is that a help?

**Sen. Baptiste-Mc Knight:** Yeah, but as it is stated here.

**Sen. Ramlogan SC:** It was never—it was not really envisaged that they would be public servants, that certainly was not my [*Inaudible*]

**Sen. Al-Rawi:** Well, that was part of the question I had earlier.

**Sen. Ramlogan SC:** Okay, no, no.

**Sen. Al-Rawi:** And what led me to believe exactly as you do is the fact that upon conditions as agreed between the employee and the Board, there is a freedom to contract.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** I can understand the rationale when you are looking for people of a certain calibre.

**Sen. Ramlogan SC:** Indeed.

**Sen. Al-Rawi:** The question was whether there was an oversight there?

**Sen. Ramlogan SC:** No.

**Sen. Al-Rawi:** There is a balancing act.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** So usually it is solved by having certain permanent staff and then others who can come on contract.

**Sen. Ramlogan SC:** You see, in this particular case, if you go with the public service, the problem is you may not—the qualifications are so rare, the people would not come to work.

**Sen. Baptiste-Mc Knight:** No, with qualifications—“what yuh talking about” the normal staff of the organization or the specialist staff? The impression that I get is that one deals with your normal staff—“yuh receptionist, yuh accountant”, et cetera.

**Sen. Ramlogan SC:** Yeah, I understand. No, well the specialist staff, that response was for the specialist staff, but—[*Interruption*]

**Sen. Baptiste-Mc Knight:** Well, we are not dealing with that because that is subclause (2).

**Sen. Ramlogan SC:** All right, I hear you. No, well on that point, Sen. Prescott is correct. This is really a statutory authority as it were, similar to the NLCB and so on.

**Sen. Baptiste-Mc Knight:** Yeah, but it is not because it is a body corporate, the NLCB is not a body corporate.

**Sen. Prescott SC:** Sorry, I used a bad example. There are some boards that are created—*[Interruption]*

**Sen. Baptiste-Mc Knight:** No, I understand what you are saying, but you have to determine here how you are dealing with your staff. You cannot say that it is going to deal with it as though it were a statutory body when it is not.

**Sen. Ramlogan SC:** But what is the objection to them being able to hire their own staff? I mean really, this—“yuh know”.

**Sen. Al-Rawi:** The lack of parity across the board.

**Sen. Ramlogan SC:** Well, you know. *[Laughter]*

**Sen. Al-Rawi:** On the one hand, it is commendable, but on the other hand, you know.

**Sen. Ramlogan SC:** Well, I mean, we should be worried about “from PTSC come down” then.

**Hon. Roberts:** I think we are getting ahead of ourselves. First and foremost, what will have to happen is that an entire organizational structure for this, in the most efficient manner, will have to be created, discussed in Cabinet, passed onto Ministry of Public Administration, PMCD, then they approve it and it comes back. So I think we are getting ahead of ourselves to try to start to fit in the organization chart right now.

**Sen. Baptiste-Mc Knight:** You see, you keep saying this, but there is one thing if PMCD is involved and there is another thing if what establishes the Board says that the Board shall employ its own staff.

**Hon. Roberts:** No, but once the Board is involved with that, with a new organizational structure, PMCD must approve.

**Sen. Ramlogan SC:** Yeah, they will.

**Hon. Roberts:** The Board cannot just do their own thing. Must approve!

**Sen. Dr. Armstrong:** Minister, that is not what is implied here—

**Sen. Baptiste-Mc Knight:** Okay, “yuh on *Hansard* eh so it will catch up with yuh”. [*Laughter*]

**Sen. Dr. Armstrong:**—and that is the concern I had. That is not what was implied here and that is the very concern that I had.

**Sen. Ramlogan SC:** Look, the position is, Chair, this is a matter that we see no great objection to the Board being able to hire its staff for a highly specialized thing like this. I accept the point that not all of the staff would be specialist.

But, I say a fortiori insofar as the majority of the staff will be specialist and you might need to have one secretary and one clerical officer, I think that giving the Board the power to hire those two persons will not kill us. This is not an entity that will have, “yuh know, ah hundred cups of samples every day to test, yuh know”. I mean when you have big meets and so on, you might get a little spike, but really, I think we will put it to the vote as is.

*Question put and agreed to.*

*Clause 12, ordered to stand part of the Bill.*

*Clause 13.*

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

**Sen. Dr. Armstrong:** I was just wondering, Mr. Chairman, whether the Minister could explain—I have no strong objections against it, but just my curiosity—why is it that this board might need to enter into borrowing as in (d)?

**Hon. Roberts:** Very, very important. In order—some of the points that you have made, you do not want a Government Minister having control over their funding and holding “ah big stick”, so you want to be able to fund them to make sure that they run independently and to have the numbers or the government allocation set in the budget and so on.

Secondly, they must be able—you do not want them to ever be in a position that they get desperate for funds and must run to different corporate bodies looking for sponsorship because then they give up some of their independence, as these corporate bodies also sponsor elite athletes and have a vested interest in ensuring that they are not disqualified for competition.

Therefore, if this body requires funding to do research, to do extra testing, they must be allowed the freedom to go to a bank and get their funding, with, of course, the approval of the Ministry of Finance and the Economy or whoever has to guarantee it.

**Sen. Dr. Armstrong:** But that is still guaranteed by the Minister anyhow.

**9.30 p.m.**

**Sen. Ramlogan SC:** Senator, I think these things are put in really out of an abundance of caution, so that you would not have to come back to amend the laws if it is that the occasion arises. But I suppose one can foresee, for example, they may want to build a lab, build an office facility, whatever the case is. Now, I hear you on the response that the Government will have to fund that, but perchance that the Government wishes to fund it by way of them borrowing as it were and Government guaranteeing, insofar as that goes. All right?

**Sen. Dr. Armstrong:** Thank you.

**Sen. Ramlogan SC:** Okay, Sir.

*Question put and agreed to.*

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

*Clause 14.*

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

**Sen. Al-Rawi:** If I could just ask the hon. Minister. I hope that we are all on the same page of trying to move to hold of government accounts and improving positions. Is it that the rules and regulations will deal with the issues of accounting, et cetera, later on? Are we going to have some form of guidance there?

**Sen. Ramlogan SC:** We will deal with what, sorry?

**Sen. Al-Rawi:** The international standards to be observed; the Jamaican legislation for instance?

**Sen. Ramlogan SC:** All right. It will deal with it. I cannot tell you how—you know, but I mean—

**Hon. Senator:** They have to be laid in Parliament.

**Sen. Ramlogan SC:**—they will deal with it, but I cannot say to what detail they will go into. I mean, accounts are normally signed off by auditors—

**Hon. Senator:** Auditor General.

**Sen. Ramlogan SC:**—and so on. I do not want to drill down too deep on one—

**Sen. Al-Rawi:** The 116 addition there.

**Sen. Ramlogan SC:** Yeah, the 116, all right? [*Crosstalk*]

**Hon. Senator:** It will be laid in Parliament annually.

*Question put and agreed.*

*Clause 14 ordered to stand part of the Bill.*

*Clause 15 ordered to stand part of the Bill.*

*Clause 16.*

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

**Sen. Al-Rawi:** Could I enquire please, through you, Mr. Chairman? The registered testing pool, insofar as that may have some aspect of electronic data basing, and paper data basing with personal information, et cetera, the repository of that information is required to own it, but we do not have in this legislation here who owns the registered testing pool. So we are establishing a registered testing pool. Is it that we—how do we envisage the Data Protection Act operating here?

**Sen. Ramlogan SC:** Well, exactly how the Data Protection Act provides for it to operate, but I mean the long and short is if the TTADO establishes the testing pool, it will own it and manage it.

**Sen. Al-Rawi:** We had the same issue when we dealt with the DNA legislation in preserving the integrity. The sections dealing with the public records have not been proclaimed yet by the Government. I do not know what the status is yet, if they are building out something, or whatever it may be. But I was wondering about establishing the position here so that we could preserve liability on to this entity, the management for it. Who is the data controller for that?

**Sen. Ramlogan SC:** Well, I will say for the record, TTADO will be the people in charge of it and will own it.

**Sen. Al-Rawi:** Thank you.

**Sen. Ramlogan SC:** Okay.

**Hon.. Roberts:** And 36 will ensure that any dissemination or leakage, they will have some serious consequences.

**Sen. Ramlogan SC:** “Okay, leh we move on.”

**Sen. George:** But in (3) it says:

“...its Registered Testing Pool.”—TTADO shall notify—

**Sen. Al-Rawi:** It is the maintenance obligation alive, the AG satisfied me with his position there.

**Sen. Ramlogan SC:** Let us move on. Listen, we have not reached the half-way mark, yet guys. Let us—

**Sen. Al-Rawi:** The night is young.

**Sen. Ramlogan SC:** “Ah know.”

**Hon. Senator:** “And yuh dropping ah sleep just now.” [*Laughter*]

*Question put and agreed to.*

*Clause 16 ordered to stand part of the Bill.*

*Clause 17.*

*Question proposed:* That clause 17 stand part of the Bill.

**Sen. Baptiste-Mc Knight:** Mr. Chairman?

**Mr. Chairman:** Senator.

**Sen. Baptiste-Mc Knight:** I would like to suggest that a representative of the government chemist be included in this committee. [*Crosstalk*]

**Hon. Roberts:** No thank you. It is fine at that and it also will or may in the future create a conflict of interest because the goal is to get an organization, whether it is the government chemist or private institution, to get approval and accreditation from WADA to conduct tests. So, we do not want them to be involved in that. They cannot conduct the test and have a member on a committee that determines whether athletes have done their pre-information properly. It does not work. So you have to keep them separate.

**Sen. Baptiste-Mc Knight:** Do you envisage that government chemist would be expanded to include the function of testing?

**Hon. Roberts:** I would love whether it is government chemist or any other laboratory to come up to specs as soon as possible once TTADO is up and running. One of their missions will be to find out what is necessary and fill all the gaps, so that we can have an accredited lab here in Trinidad and Tobago.

**Sen. Baptiste-Mc Knight:** I would have thought that it would be preferable to have government chemist apart from any possible testing lab.

**Mr. Chairman:** Sen. Prof. Ramkissoon?

**Sen. Prof. Ramkissoon:** Yes. Mr. Chair, I want to compare 17 with 19. With 17 you talk about:

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“...comprising three medical practitioners...”

So you do not have a pool of three out of five or something like that, so there is not much flexibility there. If you go with 19 you would see that you have:

“...a Results Management Committee comprising at least three, but no more than five persons...”

Okay. So I think, you know, for a bit of more flexibility for your own benefit.

**Hon. Roberts:** Correct.

**Sen. Ramlogan SC:** That is a valid point.

**Hon. Roberts:** That is a very good point.

**Sen. Ramlogan SC:** We will accept that.

**Sen. Prescott SC:** Chair, may I? Before we close off on Sen. Baptiste-Mc Knight’s—[*Crosstalk*]

**Sen. Ramlogan SC:** Prof. Ramkissoon, could you just for the purpose of the Chair?

**Sen. Prof. Ramkissoon:** Yeah, I was saying that 17, maybe it should be worded very similar to—

**Sen. Ramlogan SC:** Either pull the mike towards you or you come closer.

**Sen. Prof. Ramkissoon:**—should be worded very similar to 19:

“...comprising at least three, but no more than five persons...”

**Sen. Ramlogan SC:** Yes, we are grateful.

**Mr. Chairman:** But not more than 5 medical practitioners, at least three, surely, but all of these are medical practitioners.

**Sen. Ramlogan SC:** They are all medical you know. [*Crosstalk*]

**Mr. Chairman:** So, I am suggesting: comprising at least three, but not more than five medical practitioners and we can achieve the same objectives.

**Sen. Prof. Ramkissoon:** That is fine with me.

**Sen. Ramlogan SC:** Okay. Good.

**Sen. Prescott SC:** May I at this stage?

**Mr. Chairman:** Sen. Prescott.



**Sen. Prescott SC:** Sen. Baptiste-Mc Knight raised the question of the involvement of the government chemist, and I am making assumptions about what that person is qualified to do. There is a provision in the Bill for an appeal body which will hear appeals from a decision of TUEC—that appeal body, could it not have the government chemist as a member?

**Hon. Roberts:** No, because we hopefully as soon as possible want government chemist to be probably one of them to be conducting tests, so we do not want them involved in this in any form or fashion.

**Sen. Prescott SC:** You want government chemist to test?

**Hon. Roberts:** Whether it is government chemist or any other—we want somebody to get an accredited lab here and government chemist might be the one who is—

**Sen. Ramlogan SC:** Most prepared.

**Hon. Roberts:**—most prepared to do so.

**Sen. Moore:** I want to echo that because eventually what you may want is for the Forensic Science Centre to develop into the institution that is the premier testing institution in the region, and you would not want to compromise their ability to test by having them on a panel within the Act. So as the Minister said, yes.

**Sen. Baptiste-Mc Knight:** But forensic centre is not government chemist.

**Sen. Moore:** Well, I do not know what government chemist is, but—

**Sen. Baptiste-Mc Knight:** You do not?

**Sen. Moore:**—I do know that Forensic Science Centre is positioning itself to be the premier body. I do not know that government chemist—

**Sen. Baptiste-Mc Knight:** But government chemist is a separate institution.

**Sen. Moore:** Yes, but I do not know that they have the same level of methodology and of testing capacity. I do not know that they are going in the same direction that Forensic Science Centre is. They may well be subsumed eventually under the ambit of the Forensic Science Centre.

**Sen. Baptiste-Mc Knight:** Yeah, but government chemist tests things like food and drugs, that is what they are about.

**Sen. Moore:** So, that is forensic. I hear you Senator, but this is testing in a form that has a component of—

**Hon. Senator:** Compliance.

**Sen. Moore:**—compliance, a taint of illegality, you are talking an evidence, something to do with evidence that may lead to certain consequences, and those are the kind of capacities that Forensic Science Centre already has in its base.

**Sen. Al-Rawi:** Perhaps I can assist. Maybe the Government is looking to rationalize its hold of government services across forensics, government chemist, et cetera, and because of that risk you are not quite sure yet who will end up where. Maybe that is the reason?

**Sen. Moore:** That is not what I am saying.

**Sen. Al-Rawi:** Okay. Well, I mean is that a possibility in your mind? If so I would support it.

**Sen. Moore:** What I am saying is that the Forensic Science Centre is positioning itself to do this type of testing and to position itself as the premier testing laboratory in this type of—

**Sen. Al-Rawi:** In which case her position for Government chemist will be okay.

**Sen. Ramlogan SC:** Okay. Chair, if I may, Chair, I think we can put this to the vote so we can move on.

**Mr. Chairman:** The question is that clause 17 be amended in subclause (1) by inserting after the word “comprising” in line three, the words “at least”. And inserting after the word “three”, “but not more than five”.

**Sen. Al-Rawi:** Mr. Chairman, sorry, I was allowing the amendment to move. If I could ask a question on the last clause, clause 4—clause 17(4):

“...TUEC shall immediately notify TTADO of its decision to grant or deny a Therapeutic Use Exemption and TTADO shall...,” et cetera.

I am not seeing a comparable notification to the athlete or person who is interested and I do not want to assume it.

**Sen. Baptiste-Mc Knight:** No, the management committee does that.

**Sen. Al-Rawi:** The Results Management Committee? But the point is the contemporaneous dissemination. The other legislation I have looked at is where you inform both.

**Sen. Ramlogan SC:** Sen. Baptiste-Mc Knight got the administrative side of it correct. The results committee will give the athlete that.

**Sen. Al-Rawi:** Can we just double-check it just out of caution? Because here is where a sanction can immediately happen and loss in time can happen.

**Hon. Roberts:** The responsibility is TTADO's own. The athlete is to send in their forms to TTADO; TTADO sends it to TUEC for its approval; once TUEC informs TTADO, TTADO informs the athlete. That is the process.

**Sen. Ramlogan SC:** Well, we can simply put in "notify TTADO and the athlete".

**Hon. Roberts:** You could add athlete to the—

**Sen. Al-Rawi:** I would think it is safer to do it that way.

**Sen. Ramlogan SC:** If it makes them happy, we will put that in. If you would not make any objection to the next two or three clauses. [*Laughter*]

**Sen. Hinds:** TUEC will inform the athlete?

**Sen. Ramlogan SC:** So, we will add "notify TTADO and the athlete". Yeah.

**Sen. Hinds:** Fair enough. Faris?

**Sen. Al-Rawi:** Yeah.

**Hon. Roberts:** TTADO should inform the athlete not TUEC.

**Sen. Ramlogan SC:** But TUEC could do it too.

**Hon. Roberts:** "Nah, nah, yuh want to keep TUEC insulated."

**Sen. Ramlogan SC:** TUEC shall immediately notify TTADO.

**Hon. Roberts:** And TTADO shall notify, yeah.

**Mr. Chairman:** So it is notify WADA and the athlete?

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** You see, look I am reading from the English—

**Sen. Ramlogan SC:** Notify WADA and the athlete.

**Sen. Al-Rawi:**—because the English provision is both, just to give you the idea of the balance.

**Sen. Ramlogan SC:** "Roti and tomatoes choka waiting for me. Come nah, man."

[*Crosstalk*]

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**Mr. Chairman:** If I will go through with the amendment again to clause 17 in (1):

After “comprising”, insert the words “at least”; After “three” insert the words “but not more than five,” and in subclause (4), after the word “WADA” in line four, insert the words “and the athlete”.

*Question put and agreed to.*

*Clause 17, as amended, ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed:* That clause 18 stand part of the Bill. [*Crosstalk*]

**Sen. Ramlogan SC:** “We could take dem in groups now, boy? Faris? We could take dem in couples?”

**Sen. Hinds:** “Nah,” one by one. [*Crosstalk*]

**Sen. Al-Rawi:** If I could just ask the one question I had on this clause—I think the others have been answered—was in subclause (4), where TUEC has denied the grant of a therapeutic exemption to a national-level athlete, the athlete may appeal to the appeal panel under clause 30. I was wondering if that should be clause 33, because clause 30 talks about an appeal from the disciplinary panel to the appeal panel or CAS.

**Hon. Senator:** Correct.

**Mr. Chairman:** So shall we say—

**Sen. Ramlogan SC:** [*Inaudible*]

**Sen. Al-Rawi:** Yeah, 33.

**Sen. Ramlogan SC:** Yeah, (c)

**Mr. Chairman:** If we say clause 33—

**Sen. Ramlogan SC:** Clause 33(c) Faris, look at it.

**Hon. Roberts:** Well done.

**Mr. Chairman:** Clause 18, be amended at subclause (4) in line four by substituting the word “thirty-three” for the figure “30”.

*Question put and agreed to.*

*Clause 18, as amended, ordered to stand part of the Bill.*

**9.45 p.m.**

*Clause 19.*

*Question proposed:* That clause 19 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, AG, this one is especially for you. The “choka” will have to wait just a little bit. Clause 19(3):

“The Results Management Committee shall—

(a) notify an athlete of the result of his test;

(b) refer Adverse Analytical Findings to the Disciplinary Panel.”

What I was looking at here was “adverse findings” and the general Salmon sort principles—how we treat with adverse findings and notification to the person in respect of whom the adverse finding is—I am not quite sure this captures it.

**Sen. Ramlogan SC:** Well, I would leave those procedures to the Results Management Committee to devise, but I presume when they notify them of the result and they say, refer the adverse analytical findings to the Disciplinary Panel, if the Disciplinary Panel wishes to share that with the athlete—

**Sen. Al-Rawi:** But it must, under law.

**Sen. Ramlogan SC:** Well, if it must under law, then we do not need to put it here. You see what I mean.

**Sen. Al-Rawi:** But you see, technically, the law may be contracting otherwise—if I could use the word “contracting”.

**Sen. Ramlogan SC:** Well, no because you see all statutes are imbued with the principles of natural justice and you do not need to spell it out. The Judicial Review Act says that in any event.

**Sen. Al-Rawi:** Uhm. Senior?

**Sen. Prescott SC:** Yeah, I am listening.

**Sen. Ramlogan SC:** Well, the Judicial Review Act says that—that the principles of natural justice—

**Sen. Prescott SC:** What are we resisting? Informing—

**Sen. Al-Rawi:** Whether the adverse findings should be notified to the athlete as well.

**Sen. Prescott SC:** We are resisting informing the athlete?

**Sen. Ramlogan SC:** No, no, no. It is there in the law already.

**Sen. Al-Rawi:** Yes, but that is of the result; that is not necessarily of an adverse analytical finding.

**Sen. Prescott SC:** Of the referral. Are we resisting—

**Hon. Roberts:** I agree with you that there has been a mistake here. The Disciplinary Panel is not notified until the B sample is tested. So the athlete is notified of the adverse finding of the result of his A test and then the athlete will then request a B sample test or accept. Then, when the B sample test is conclusive and agrees with A test, then the Disciplinary Panel is advised and that triggers their action

**Sen. Al-Rawi:** My mischief, the mischief in my mind, was just making sure we avoided the committee coming into disrepute.

**Sen. Prescott SC:** You want to inform him of the referral, is that it?

**Sen. Al-Rawi:** The adverse finding, AG—my point is, in the event that the adverse finding is split from a result—okay, you have a result, but I may not be told of the adverse finding, so I am just making sure that he is informed of it because then it covers the area of law that I am worried about.

**Sen. Ramlogan SC:** Well, we can say in (a), “Notify an athlete of the result of his test and any adverse analytic findings” but, you see, the reason I am hesitant to do that, Sen. Prescott—

**Hon. Roberts:** You might also get a good test, “eh”.

**Sen. Ramlogan SC:** The reason I am hesitant to do that is because the gap there is meant to be filled in by practical administration. For example, I “doh” know, but they may have had within their contemplation that they would like the adverse analytical findings to be seen by the Results Management Committee first because it may very well be that they might want to deal with it in a particular way.

**Sen. Prescott SC:** What I think I am seeing is that it is not inconsistent with that for the athlete to be told that I have today referred your adverse analytical finding to the panel. He needs to be told.

**Sen. Ramlogan SC:** Well we can say, “Notify an athlete of the result of his test and the referral referred to in (b)”.

**Sen. Prescott SC:** No, when you come to (b), you say, “refer the adverse analytical findings to the panel and inform the athlete”.

**Sen. Ramlogan SC:** That is fine. I can live with that. We leave (a) as is and in (b) we simply say, “and inform the athlete”.

**Sen. George:** So you are giving the fellow—you are giving the people two—

**Sen. Al-Rawi:** Because they are two separate things.

**Sen. George:** But you see—

**Sen. Ramlogan SC:** It is overkill.

**Sen. Al-Rawi:** It is not, you know. It is to capture the Salmon principle.

**Hon. Roberts:** No, no, no. It is not overkill. Put it in.

**Sen. Ramlogan SC:** We will put it in. We will put it in.

**Hon. Roberts:** It makes it clearer. [*Crosstalk*] No, it makes it clearer.

**Sen. Ramlogan SC:** I think they would have had to do it anyway.

**Sen. George:** No, no, no, but then you “doh” have to put in (a) and (b). You could remove (a) completely; put (b) as (a) and simply say at the end of (a), “and notify the athlete of it”.

**Mr. Chairman:** It is two different things.

**Sen. Ramlogan SC:** It is two different things.

**Hon. Roberts:** No, because it is an A and a B test and you do not refer the A test to the panel.

**Sen. George:** Okay, all right.

**Sen. Ramlogan SC:** Let us move on, Chair.

**Mr. Chairman:** The question is that clause 19 be amended at subclause (3)(b) by inserting the words “and inform the athlete” after the word “Panel”.

**Sen. Prescott SC:** “of the referral”.

**Sen. Ramlogan SC:** “of the referral”. At (b) and simply after “Panel”, “and notify the athlete”—

**Hon. Roberts:** “of same”.

**Sen. Ramlogan SC:** “of the referral”.

**Mr. Chairman:** Oh, I see. “Of such referral”, then?

**Sen. Ramlogan SC:** Yes.

**Mr. Chairman:** So that clause 19(3)(b) be amended by inserting after the word “Panel”, “and notify the athlete of such referral”.

**Sen. Ramlogan SC:** Yes.

*Question put and agreed to.*

*Clause 19, as amended, ordered to stand part of the Bill.*

**Sen. Ramlogan SC:** 20.

**Sen. Hinds:** In 19(3)(d), there is a requirement for the Results Management Committee to inform the police where in a sample of an athlete there has been a finding of a prohibited substance, which is a dangerous drug as defined under the Dangerous Drugs Act. Now, on the face of that, that is quite anticipated, perhaps one may say innocuous; but when the athlete gives the sample, he understands and undertakes that that will be done in relation to the administration of the sport.

Sen. Baptiste-Mc Knight had raised, in the course of the debate, the possibility and to deal with the self-incriminating point whether—because you see, while we deal with strict liability as it applies to the doping regime, it may not necessarily be strict liability in terms of the criminal proceedings, knowledge and proof and a mens rea act should be established. So Sen. Baptiste-Mc Knight was suggesting that there should be some other tier of activity on the part of the athlete to give his consent to make that available to anyone else other than for the purpose of administering the sport.

**Sen. Moore:** Senator, I am making an enquiry for the purposes of clarifying your concern. With regard to your concern on that item (d), are you concerned that the transmission of that information will lead to some sort of criminal charge founded on the basis of the information transmitted?

**Sen. Hinds:** It is possible.

**Sen. Moore:** But that information would not transmit, let us say information about possession. It would not constitute evidence to ground a possession charge; it would not constitute evidence to ground a trafficking charge. I know you are closer to—

**Sen. Hinds:** Why then would it be transmitted to the police?

**Sen. Moore:** I take that point. I take that point, perhaps Minister—

**Hon. Roberts:** It was a point for debate and I have no problem if the committee wants to delete it. I just thought that when you look at it from both sides of the coin, if Government or an agency, a statutory body, was in possession of information that could assist the police, we said that they should be responsible—

**Sen. Hinds:** It can only be very incriminating taking the point that has been made. Why do you inform the police?



**Sen. Ramlogan SC:** I suspect that one would want to inform the police just for the following reasons. If you have someone who has tested positive for an illegal substance, say cocaine for example, informing the police might alert the police to the fact that they need to keep an eye on this gentleman. If, for example, he is involved in trafficking, because he is an elite—elite athletes occupy a very special and unique position in our society. They wield a large, an awesome amount of influence and power over the youths, and if—

**Sen. Al-Rawi:** AG, just to help you—

**Sen. Prescott SC:** I think at this point you should listen to the Minister of Sport. You really should not do this.

**Sen. Hinds:** No, no. This is taking it—I think the safest position and to make it very clear, this Parliament, no Senator here is encouraging any use of drugs, but I think, all things considered, this should simply be deleted.

**Sen. Ramlogan SC:** Hold on! Let us consider that. I have to say, if a man tests positive—

**Sen. Hinds:** Just let me say before you continue, we have a regime under the Dangerous Drugs Act to deal with all other offences in relation to the possession of drugs and what-have-you.

**Sen. Ramlogan SC:** But, this is not possession, “eh”.

**Sen. Hinds:** Well, this is the point. Then the question becomes acute. Why then inform the police?

**Sen. Ramlogan SC:** And I am answering that because I could well see, if it comes to the attention of the State that a man tests positive for using cocaine and that is an illegal substance in this country and he is an elite athlete, I do not see for myself that there is anything objectionable in the police being notified so that perhaps—and let me tell you, several things can happen. The police may want to keep an eye out on the guy to see if he is trafficking to the other smaller youths in the village. The police may want to perhaps keep an eye on him to see if at any point in time he is trafficking or involved in drug trafficking and they may want to get a search warrant based on their observations as the case may be.

**Sen. Hinds:** AG, I think, quite flatly that is quite fanciful, to use a term that you would use often because soldiers, for example, from the defence force, who are randomly drug tested, when they are found to have been in use of these substances, they are simply dismissed. There is no referral to the police and worse than that, they are ignored by the society.

**Sen. Ramlogan SC:** But is that right? That does not make it right.

**Sen. Hinds:** I am not saying that it makes it right.

**Sen. Ramlogan SC:** Let me hear Sen. Al-Rawi.

**Sen. Al-Rawi:** AG, if I can say this, there is merit in what you are saying. One of the UNESCO objectives is in fact the prevention of distribution, et cetera and so there is a recent amendment in Australia again to try to broaden the whole call for evidence and help to widen the strangulation of a constantly evolving drug market. The problem, I think, is really in the fairness of the procedure and that is where Sen. Hinds is. So it is a balancing act. There is merit in what you are saying, perhaps clothed in a slightly different format, but it is conceivable. The problem is: does subclause (d) do what we really want to do? We want to prevent trafficking and use of enhancements and performance drugs, which can be dangerous drugs, but the question of informing without the athlete's knowledge, without the right to a fair hearing—

**Sen. Hinds:** And one final point, AG, before you go and as I was making the point about the soldiers, they are not referred to the police. In fact, with the soldiers, they are dismissed and ignored so we end up with a drug addict sometimes, out on the streets, who is now trained and creates serious problems for the society.

**Sen. Ramlogan SC:** Maybe if they had informed the police that would not have happened.

**Sen. Hinds:** So the referral, if anything, should be for counselling or for rehabilitation or for treatment, but not the police.

**Mr. Chairman:** May I enquire, if there is a disciplinary panel that looks at this issue? I am not sure what the panel does, but obviously it will disqualify the athlete from appearing in games, but does it make known what substance—

**Hon. Roberts:** Yes, it does.

**Hon. Senator:** It does, it does.

**Mr. Chairman:** If it does, then the police become aware of it, you do not need to have a referral.

**Hon. Roberts:** No, problem. Delete. I just thought we have a duty if we found out criminal information—

**Sen. Ramlogan SC:** I still think so.

**Sen. Al-Rawi:** The problem is the balance and I do not know how to deal with it.

**Sen. George:** In the extreme case, one down the road could be accused, a government or whoever found this out could be accused if the person does something, you can say, but “allyuh” had that information and you all did nothing about it.

**Sen. Al-Rawi:** There is merit. The question is the constitutional balance.

**Sen. Ramlogan SC:** You see, Chair, I want to say this for the record, “eh”. I want to state my personal view on this matter. This is the essence of democracy. Could one imagine what would happen, whilst it sounds nice to say why tell the police and disregard the examples I have given, you could imagine what would happen if a man, an elite athlete in this country, tests positive for cocaine and a state agency is aware that that person has tested positive for cocaine and he is trafficking drugs to “lil” fellas on the block and one of those fellas dies of an overdose? You know what would be the public outcry if it emerges that a state entity, paid for by taxpayers of this country, knew that that person, whether it is Mr. X or Mr. Y was in fact using cocaine and did nothing about it, to tell the police or to do anything about it?

**10.00 p.m.**

**Sen. Al-Rawi:** You see, AG, the problem is that a dangerous drug—

**Sen. Ramlogan SC:** That is the point. It is confined to dangerous drugs.

**Sen. Al-Rawi:** No, but a dangerous drug is actually much broader than just cocaine, et cetera.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** There are certain types of medicinal things that can go there. I hear you.

**Sen. Ramlogan SC:** Not for dangerous drugs.

**Sen. Al-Rawi:** There is merit in what you are saying, honestly. The problem is—this is why, for instance, in Australia they broadened powers to call for evidence.

**Hon. Roberts:** No problem. Let us move on, I agree. I was just saying we included it. That was one of my suggestions to include it, because I believe that it would be an omission not to alert, not that the police could charge you, because that could not hold up in evidence, but they could take action. They could discuss with the athlete, give them counselling and so on.

**Sen. Hinds:** AG, AG, if a man is found with a marijuana cigarette or anything under 1,000 grammes, the possession of that is not evidence of trafficking; actual possession of it. There is no evidence of trafficking.

**Sen. Ramlogan SC:** Okay, let us move on, Mr. Chairman.

**Sen. Hinds:** So what are we going to do with it? Do we delete it?

**Sen. Ramlogan SC:** We said that already.

**Sen. Hinds:** I think so. Thank you.

**Mr. Chairman:** The question is that clause 19 be amended by inserting at subclause (3)(b) after the word “Panel” “and notify the athlete of such referral;” and” at “(c)” we will insert after the word “suspicious” a “.” in place of the current “;” and remove the “and”.

**Hon. Senators:** And delete (d).

**Mr. Chairman:** And delete (d), sorry. And (d) will be deleted.

*Question put and agreed to.*

*Clause 19, as amended, ordered to stand part of the Bill.*

*Clause 20.*

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

**Sen. Al-Rawi:** Mr. Chairman, if I could say to put a smile on the AG’s face, that I have no difficulty subject to anyone else, with clauses 20, 21 and 22. I do not know if anybody else does.

**Sen. Dr. Bernard:** Mr. Chairman, I would like to hear the Minister’s position on when each time I read athlete with a medical condition, I want to get your perspective on our paraplegics; our young ones who have to go to Special Olympics; our autistic children who may need some kind of medication. Are they governed in here somewhere?

**Hon. Roberts:** Yes, and they go to TUEC. Whatever medication is required, they present it to TUEC and TUEC approves it. You see, advanced notice of any frailty or inability is okay. So that is all right. Any medication that they are taking—

**Sen. Al-Rawi:** All they are taking for emergencies.

**Sen. Hinds:** Apply to TUEC; inform TUEC.

**Hon. Roberts:** Just inform TUEC on the form.

**Sen. Ramlogan SC:** If they have a problem they would tell you.

**Hon. Roberts:** And that is okay.

**Sen. Ramlogan SC:** Mr. Chairman, 20 to 22.

**Sen. Prescott SC:** I wish to be heard on 21.

*Clause 20 ordered to stand part of the Bill.*

*Clause 21.*

*Question proposed:* That clause 21 stand part of the Bill.

**Sen. Prescott SC:** May I on 21 invite a comment? What is the penalty for contravening 21(1)?

**Hon. Roberts:** That is a positive test. If you do not have that exemption and you test positive for a substance that is in your medication that is on the banned list, that is a positive test and you suffer the consequences.

**Sen. Prescott SC:** What is the penalty for contravening 21(1)?

**Hon. Roberts:** No, it depends on what the substance is. If it is Ventorlin, it might be just a warning. If it is—

**Sen. Prescott SC:** What is the penalty for contravening, in other words, for using a prohibited substance?

**Sen. Al-Rawi:** Law must have a sanction.

**Sen. Prescott SC:** It says you shall not use a prohibited substance. What is the penalty?

**Sen. Ramlogan SC:** Well, it would depend on what the substance is.

**Hon. Senators:** No, no, no.

**Sen. Al-Rawi:** He does not mean that. He is going to the theory of law.

**Sen. Prescott SC:** Is it an offence in law? No. He is banned from a competition.

**Sen. Ramlogan SC:** No, no, it is not an offence. You mean if it is a criminal offence.

**Sen. Prescott SC:** He cannot participate in a competition if he does not have the—

**Hon. Roberts:** No, he participated and if he participates and tests positive, even though it was a medication that he takes based on a medical problem, his lack of notifying negates his possibility that he does not—

**Sen. Prescott SC:** So shall we address it now? Clause 21(1) says it is an offence to use a prohibited substance. You are prohibited from using a prohibited substance and that is not true. Anybody may use a prohibited substance.

**Hon. Roberts:** Unless you have obtained.

**Sen. Prescott SC:** If he has used a prohibited substance, what is the penalty?

**Sen. Al-Rawi:** Without obtaining? Take it to its logical conclusion.

**Hon. Roberts:** The penalty is based on the code, whatever the substance—

**Sen. Hinds:** Disqualification or ban?

**Sen. Prescott SC:** Okay, so he shall be subject to the penalties under the code.

**Hon. Roberts:** Correct.

**Sen. Prescott SC:** But the clause does not say that.

**Sen. Al-Rawi:** That is right.

**Sen. Prescott SC:** It simply tells you, you must not use it.

**Sen. Hinds:** Now if you get TUEC's approval it is no longer prohibited.

**Hon. Roberts:** Correct, but if you do not get the approval—

**Sen. Al-Rawi:** Hon. Minister, what Sen. Prescott was pointing to is similar to clause 23. So, 23 says in subclause (4) that if you do not comply there is a sanction. So the point in relation to the law in 20(1) is, we need to take it to its logical conclusion.

**Sen. Ramlogan SC:** It will be an anti-doping violation.

**Sen. Al-Rawi:** Well yeah, but then we could say so.

**Sen. Ramlogan SC:** "Eh"?

**Sen. Al-Rawi:** Then we would need to say that. Is there another clause that says that? For instance, it shall be an anti-doping violation for an athlete to use a prohibited substance unless he has obtained.

**Hon. Roberts:** Yes.

**Sen. Al-Rawi:** That would cure it.

**Hon. Roberts:** No problem.

**Sen. George:** Under the penalty of an anti-doping violation or something like that an athlete shall not—

**Hon. Roberts:** The anti-doping violation will be committed if an athlete fails to obtain therapeutic—words to the effect.

**Sen. Prescott SC:** I like how you come and go. [*Laughter*]

**Hon. Roberts:** So, go ahead, word it there. [*Laughter*]

**Sen. Al-Rawi:** It shall be an anti-doping violation for—

**Hon. Roberts:** Yes.

**Sen. Al-Rawi:** And then words continue—“an athlete to use a prohibited substance”, and it just continues as it goes.

**Sen. Ramlogan SC:** That is all, exactly.

**Mr. Chairman:** So you want to introduce that language into (1), at the beginning of (1)?

**Sen. Ramlogan SC:** Yes.

**Mr. Chairman:** It shall be an anti-doping—“anti-doping” is a double-barrelled word, is it?

**Sen. Al-Rawi:** Yes. I am just checking the definition.

**Mr. Chairman:**—“anti-doping violation for an athlete to use a prohibited—

**Sen. Al-Rawi:** Anti-doping rule violation are the words—“anti-doping rule violation”.

**Sen. Hinds:** Yes, go ahead.

**Mr. Chairman:** “...to use a prohibited substance or a prohibited method unless he obtained a therapeutic use exemption in respect of that substance or method. Correct? That is what we anticipate.

**Sen. Ramlogan SC:** Yes.

**Hon. Roberts:** Correct.

**Mr. Chairman:** Are there any other concerns on clause 21?

**Hon. Senators:** No.

**Mr. Chairman:** The question is that clause 21 be amended in subclause(1) by introducing before “An athlete” the words “It shall be an anti-doping rule violation for”—the “An” will get a common “a”; delete “shall not” and substitute it by “(2)”.

**Sen. Ramlogan SC:** That is it.

*Clause 21, as amended, ordered to stand part of the Bill.*

*Clause 22 ordered to stand part of the Bill.*

*Clause 23.*

*Question proposed:* That clause 23 stand part of the Bill..

**Sen. Al-Rawi:** Mr. Chairman, clause 23(4), an athlete who does not comply with subsection (1)—and that is the whereabouts positioning—my reading of this causes me some concern because the other laws that I have looked at and rules suggest that it is “a three strikes” in an 18-month period that causes the violation. As it is set up here, if you fail to report once, you are guilty of the violation in subsection (4). So the code itself has three strikes in the 18-month provision, and I did not know how we were going to deal with that.

**Sen. Prescott SC:** Mr. Chairman, before we get a response, let me just add, the Minister told us that it was TTADO who would recommend to the Government that the athlete not receive financial support. This connotes something different. Should I repeat that or have we got it? The Minister told us that it is TTADO who will recommend to the Government that “an athlete who does not comply shall be ineligible...” as opposed to what reads in subsection (4) now that he immediately becomes ineligible from—so a government officer makes the determination?

**Hon. Roberts:** Let me do the first one first. Sen. Al-Rawi, what was your point?

**Sen. Al-Rawi:** My point is that—[*Interruption*—so (1) and (2) is for whereabouts. You must notify them an hour before, the day when you are supposed to do it, and if you do not, skip (3)—

“An athlete who does not comply with subsections (1) or (2) shall be ineligible...”

The other rules that exist elsewhere in the world say, if you have done it three times in an 18-month period then it is a rule violation. So I wanted to make sure that we were not being too tight.

**Hon. Roberts:** No, it has to be three times. We have to put in three times.

**Sen. Al-Rawi:** Or hon. Minister, you could think about tying some kind of language to say whatever the rule suggests because they may evolve from time to time. So, I did not want to tie you down too much, but I just did not want it to be as strict as this.

**Hon. Roberts:** According to WADA’s rules—

**Mr. Chairman:** So shall, if the WADA rules—[*Crosstalk*]

**Hon. Roberts:** It is a violation.

**Sen. Al-Rawi:** But (4) as it suggests, AG, is tied to (1) and (2); look at (3):



“Where an athlete is required to provide whereabouts information to an International Federation, he shall simultaneously provide...”

But (4) refers to (1) and (2), and (1) and (2) are very strict. We are not talking about TTADO only. So my point is, how do we tie it in to the international rule cycle to give it the flexibility of change?

**Mr. Chairman:** Suggesting after the word “shall” we introduce “if the WADA rules, or whatever rules it is, so prescribed”.

**Sen. Al-Rawi:** I am looking for it in the other laws to see if maybe that would help to find a formulation in the meanwhile unless somebody else has something else. Perhaps you may want to deal with Sen. Prescott while I look for that.

**Sen. Ramlogan SC:** Shall we just say “subject to the WADA rules”?

**Mr. Chairman:** Yes “subject to the WADA rules” sure. I am not sure if “WADA rules” is the defined term.

**Sen. Ramlogan SC:** Whatever the defined term is.

**Sen. Prescott SC:** Which subsection is that?

**Sen. Al-Rawi:** The code.

**Sen. Ramlogan SC:** What do you want to put?

**Mr. Chairman:** Subject to the code.

**Sen. Ramlogan SC:** Subject to what?

**Sen. Prescott SC:** Which subsection is that?

**Sen. Al-Rawi:** It is (4).

**Sen. Ramlogan SC:** “Subject to the Anti-Doping Rules” which would be the Anti-Doping Rules made under this Act. “Subject to the Anti-Doping Rules an athlete who does not comply...” because those rules will deal with the three strikes in your position. All right, Sen. Al- Rawi?

**Sen. Al-Rawi:** I am just double-checking. It sounds good to me. Well I think we are there, but once we are sure of it.

**Sen. Ramlogan SC:** Well, I am assured that we are sure of it.

**Sen. Al-Rawi:** You did not check the rules.

**Sen. Ramlogan SC:** No, but they checked it.

**Sen. Al-Rawi:** They checked it?

**Sen. Ramlogan SC:** I have to rely on the public servants. Remember you all were just championing the cause to include them in this thing. You cannot go contrary to it.

**Hon. Roberts:** No, the rule is clear. It has to be in here. That is the problem.

**Mr. Chairman:** The rules may change from time to time so we have flexibility.

**Sen. George:** What is the wording?

**Mr. Chairman:** So after “shall”, “subject to the Anti-Doping Rules”, “be” remains as the same.

**Sen. Al-Rawi:** Okay, just to give you an example, for Senators, 2.4 of the English rules which is very close to the other one:

Whereabouts violations

Any failure to file whereabouts information in accordance with IST shall be deemed a filing failure. Any failure to be available for testing as a missed test any combination of three filing failures and/or missed tests committed within an eighteen-month period as declared by NADO or other anti-doping shall constitute an anti-doping rule violation.

That is how that is structured.

**Sen. Ramlogan SC:** That will come in the rules.

**Hon. Roberts:** That is taken from out of the code.

**Sen. Ramlogan SC:** Yes, it comes from the code.

**Sen. Al-Rawi:** So, I am just giving you an example how it went.

**Sen. Ramlogan SC:** Okay. You can put it to the vote there Chair.

**Hon. Roberts:** “Yes Chairman, we good to go there.”

**Sen. Al-Rawi:** I am not sure about that. Are you sure? Are you comfortable with the addition “subject to the WADA rules”?

**Sen. Prescott SC:** Yeah, yeah. I just want to deal with my other point.

**Sen. Al-Rawi:** Okay.

**Sen. Ramlogan SC:** “We good with that.” Let us move on to Sen. Prescott’s other point.

**Sen. Prescott SC:** What I had observed is that the Minister had said in his reply that in order to become ineligible for funding a recommendation had to be made by TTADO.

**Sen. Al-Rawi:** Yes.

**Sen. Prescott SC:** And I thought that that was quite generous and I would wish to see it in.

**10.15 p.m.**

**Sen. Ramlogan SC:** That would apply if they breach?

**Sen. Prescott SC:** Yes, if they are in breach. TTADO will say to the Government—

**Hon. Roberts:** “On notification by TTADO”—no problem.

**Sen. Prescott SC:** “Shall be recommended for”?

**Sen. Ramlogan SC:** “shall be ineligible for financial or other support from the Government”—just put “upon recommendation from TTADO”. “Upon recommendation of TTADO?”

**Sen. Prescott SC:** Yes.

**Sen. Ramlogan SC:** Chair, we say now, after (a) at the end of the word “Government”, “upon recommendation from the TTADO”.

**Sen. Prescott SC:** Is the Chair okay with that?

**Hon. Roberts:** It was sort of understood, but you could put it in.

**Sen. Prescott SC:** I thank you very much, Minister.

**Sen. Ramlogan SC:** We are making a lot of concessions today, Sen. Prescott. You are sounding very “soldierish”. [*Laughter*]

**Sen. Prescott SC:** After 10 o’clock, anything could happen.  
[*Laughter*]

**Mr. Chairman:** Can I put the amendments before you? Clause 23(4) commences with the words:

“Subject to the Anti-Doping Rules, an”—with a common ‘a’—“athlete who does not comply with subsection (1) or (2) shall be—”

And then in the sub, sub (a) add the words:

“upon recommendation from TTADO”.

**Sen. Prescott SC:** After the word “Government”.

**Mr. Chairman:** After the word “Government” and before the semicolon.

*Question put and agreed to.*

*Clause 23, as amended, ordered to stand part of the Bill.*

*Clause 24.*

*Question proposed:* That clause 24 stand part of the Bill.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, I suggest that subclause (2) become part of subclause (3), that it also be subject to an athlete's consent in writing.

**Sen. Al-Rawi:** That would take care of my concern on the constitutionality of DNA testing as well without consent.

**Mr. Chairman:** So if we put in front of clause 24(2):

“Subject to the athlete consenting in writing, a sample”—

**Hon. Roberts:** Just delete “or (2)”, but suffice it to say that these things are done on a form, so it is built into the WADA Code and their form that nobody's sample can be utilized for anything unless the athlete signs that, but we can include it here by deleting “or (2)”.

**Sen. Al-Rawi:** I do not know if (2) and (3) are slightly disjunctive because the means of identification is for another purpose. Putting an issue of consent into subclause (2) may be perhaps more palatable; words to the effect of “with the athlete's consent”.

**Mr. Chairman:** It is subject to the athlete's consent.

**Sen. Ramlogan SC:** Or, “a sample may, with the consent of the athlete”—

**Mr. Chairman:** “a sample may, with the consent of the athlete,”—

**Sen. Ramlogan SC:** “How da drafting sound?”

**Hon. Roberts:** “What about de consent?” [*Crosstalk*] There is a prescribed form.

**Mr. Chairman:** The forms are not attached here.

**Hon. Roberts:** “Yes, so we ent put it in.”

**Mr. Chairman:** So:

“a sample may, with a written consent of the athlete, also be used” in (2).

**Sen. Al-Rawi:** Just a question for the record. The hon. Minister did explain that samples would go from TTADO to WADA. I was wondering about the right of destruction of samples, and that ties in now to the fact that WADA keeps samples for

eight years. We do not necessarily have a similar provision. I was wondering about the right to request. I am thinking aloud, AG, if you could help me with this one here. Is it that we could rely upon the inherent right to ask for your sample to be destroyed?

**Sen. Ramlogan SC:** Yes, we could; yes.

**Sen. Al-Rawi:** At any point—

**Sen. Ramlogan SC:** The right of destruction of the sample, whether or not you could ask for it after, just to be destroyed. But the reality is this, after eight years they might not really have place to keep your samples, so they would destroy it in any event.

**Sen. Al-Rawi:** I am just wondering about the whole DNA aspect. [*Interruption*]

**Sen. Ramlogan SC:** No it does not, but it is not for that purpose they are giving it. I do not think we need to put it in. Realistically, I do not think anybody would be interested in keeping it beyond—

**Sen. Al-Rawi:** It helps, once we contemplate it, in *Hansard*.

**Sen. Ramlogan SC:** We can say it for the record, yes, I agree with you. So we will say that after eight years it is contemplated that you can make a request to have the sample destroyed.

**Sen. Al-Rawi:** On the issue of eight years, I am not sure where to address it in here; this is the incongruity between the periods of limitations from the international level and our laws. I do not know how to deal with that.

**Sen. Ramlogan SC:** We will leave it to move in accordance with what the international position is in accordance with WADA, and we will be guided by that.

**Hon. Roberts:** Until such time as we have an accredited lab down here, then we will have to make an amendment.

**Sen. Ramlogan SC:** Also the rules could look into that as well.

**Sen. Al-Rawi:** The rules could provide for destruction.

**Sen. Ramlogan SC:** They could; so we could look at that.

**Sen. Al-Rawi:** Okay, so we will. Thanks.

**Sen. Dr. Bernard:** In dealing with a minor, should we not have in there somewhere that the athlete or parent or—I am concerned, if it is a 12-year-old, whether or not the consent in writing will stand—

**Sen. Ramlogan SC:** The athlete or his guardian, or his parent or guardian.

**Sen. Al-Rawi:** I think that somewhere else in the Bill we dealt with a general—in the case of a minor that we superimpose a position.

**Sen. Ramlogan SC:** There is a general provision for that already.

**Sen. Baptiste-Mc Knight:** How does (3) now read?

**Mr. Chairman:** I do not think there was a change to (3).

**Sen. Baptiste-Mc Knight:** Then having changed (2)—

**Mr. Chairman:** Sorry, subclause (2) is changed.

**Sen. Baptiste-Mc Knight:** Having changed (2)—

**Mr. Chairman:** By adding after the word “may” in line one, “with the written consent of the athlete”.

**Sen. Baptiste-Mc Knight:** Do we still maintain “or (2)” in (3)?

**Mr. Chairman:** It remains the same. No adjustment has been made to (3).

**Sen. Ramlogan SC:** It is otiose.

**Sen. Al-Rawi:** Mr. Chairman, sorry to indulge this. On clause 24(4):

“The results of in-competition testing or out-of-competition shall be forwarded to the Results Management Committee.”

It is understood there that they would do the dissemination to the athlete, right?

**Sen. Ramlogan SC:** Of course; yes, we dealt with that before.

*Question put and agreed to.*

*Clause 24, as amended, ordered to stand part of the Bill.*

*Clause 25 ordered to stand part of the Bill.*

*Clause 26.*

*Question proposed:* That clause 26 stand part of the Bill.

**Sen. Al-Rawi:** Chairman, it is a little long, just give us one second, please. [Crosstalk]

**Sen. George:** I suppose it might be different, because “rule” at (3) is a common “r”. Well, it starts with a capital “R”, but in the second line “rule” becomes a common “r”. [Crosstalk] At (3) the word “Rules” is okay, but look in the second line, the last word. [Crosstalk]

**Sen. Al-Rawi:** Question, Mr. Chairman. I told you it was a little bit long, sorry about that:

“Rules made under subsection (1)”—I am at subsection (5), the last one:

“(5) Rules under subsection (1) shall be published in such form as TTADO may determine.”

Do we want, insofar as these rules are important, to lay these things in Parliament?

**Sen. Ramlogan SC:** “Not at all, no, because none of we is athletes.”

**Sen. Al-Rawi:** I mean, in the same way that we lay civil proceedings rules or amendments to rules.

**Sen. Ramlogan SC:** “Nah, nah, nah, nah; I do not think so. This is to target a niche market as it were.

*Question put and agreed to.*

*Clause 26 ordered to stand part of the Bill.*

*Clause 27 ordered to stand part of the Bill.*

*Clause 28.*

*Question proposed:* That clause 28 stand part of the Bill.

**Mr. Chairman:** Another long one.

**Sen. Al-Rawi:** Mr. Chairman, I had a concern about five-year standing for Chairman and Vice-Chairman in 28(1)(a), it being a disciplinary panel. When I look to the equivalent in the disciplinary committee of the Law Association, the minimum requirement was 10 years, because it really is a serious thing.

**Sen. Ramlogan SC:** The problem—

**Sen. Al-Rawi:** I know, the resource identification. “Where yuh getting them from?”

**Sen. Ramlogan SC:** “Yeah, is the resource. Yuh not getting people to serve”—then you have the Integrity Commission.

**Sen. Al-Rawi:** But it is part-time too.

**Sen. Ramlogan SC:** Let us compromise at seven years. We will put seven years.

**Hon. Roberts:** But the appeal is 10 years, you know.

**Sen. Al-Rawi:** I know, but the disciplinary panel should have —

**Sen. Ramlogan SC:** Seven and 10; that is why I said seven here, 10 in the appeal.

**Hon. Roberts:** “All the disciplinary panel have to do is really read, yuh know.”

**Sen. Al-Rawi:** “Nah, is more than that.” [*Laughter*]

**Sen. Ramlogan SC:** So clause 28(a) is amended to read seven years.

**Mr. Chairman:** So the question is that clause 28(1)(a) be amended by deleting the word “five” in line three and substituting the word “seven”.

*Question put and agreed to.*

*Clause 28, as amended, ordered to stand part of the Bill.*

*Clause 29.*

*Question proposed:* That clause 29 stand part of the Bill.

**Sen. Ramlogan SC:** “We good tuh go.” (*Crosstalk*)

**Sen. Al-Rawi:** Mr. Chairman, just one slow down; hold on one moment, one moment.

**Hon. Senator:** [*Inaudible*]

**Sen. Al-Rawi:** I did, but I mean, it is law; it is one shot. My memory is good, but I was referencing four pieces of law at the same time.

**Sen. Ramlogan SC:** “We good dey, Faris.”

**Sen. Al-Rawi:** Clause 29(4), a matter that is referred to the disciplinary panel—how many members we have on the panel?

**Sen. Hinds:** Nine.

**Sen. Al-Rawi:** Okay, nine. Is that right? Did we want to allow for the empanelling in different divisions, similar to the disciplinary committee in the law association?

**Sen. Ramlogan SC:** “Nah.” They could informally do that and decide upon the three, relevant to subject issue, “but leh we not put that in de law, like if it is de Industrial Court with Essential Services Division, and what have you.” So we could run with that.

*Question put an agreed to.*

*Clause 29 ordered to stand part of the Bill.*

*Clause 30.*

*Question proposed:* That clause 30 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, clause 30 uses in subclause (3)(b):

“the other party to the case in which the decision was rendered.”

I am not quite sure who the other party in this disciplinary circumstance is.



**10.30 p.m.**

**Sen. Ramlogan SC:** Thirty what?

**Sen. Al-Rawi:** 30(3)(b).

**Sen. Ramlogan SC:** Yes, (b).

**Mr. Chairman:** That is if somebody else is affected by it.

**Sen. Ramlogan SC:** Yeah. It could be some—

**Mr. Chairman:** Another athlete?

**Sen. Ramlogan SC:** Could be the organization.

**Sen. Al-Rawi:** I have seen it set out in other places “an interested party who shall be observers”. I have seen it in—*[Interruption]*

**Sen. Ramlogan SC:** Nah, nah. They will be covered by (b) anyway.

**Sen. Al-Rawi:** They will be covered by (b). Well the question was, yeah, Christlyn, Sen. Moore, said it “the or any other”.

**Sen. Ramlogan SC:** Instead of “the” change to “any”.

**Mr. Chairman:** “any” to—

**Sen. Ramlogan SC:** That is fine.

**Mr. Chairman:** Yeah.

The Question is, that clause 30(3)(b) be amended by deleting the word “the” in line one, the first word—

**Sen. Ramlogan SC:** “any”.

**Mr. Chairman:**—and substituting for “any”.

**Sen. Hinds:** Just for some clarification here at this point. Let me ask the Minister; if it is—

**Sen. Al-Rawi:** Microphone.

**Sen. Hinds:**—found out that the athlete—strict liability applies—he has something inside of him and the evidence shows that the coach—

**Hon. Roberts:** He could be subject to sanction.

**Sen. Hinds:** The coach could be subject to sanction.

**Sen. Ramlogan SC:** Because he could get in real trouble.

**Hon. Roberts:** In that disciplinary into the appeal panel when evidence is brought if it can be proven that the coach gave the substance, the athlete would still be banned but the coach would be banned.

**Sen. Hinds:** Thank you.

*Clause 30, as amended, ordered to stand part of the Bill.*

*Clause 31, ordered to stand part of the Bill*

*Clause 32.*

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

**Sen. Prescott SC:** The reason for clause 32.

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:**—is one of my little pet—is it in (2) in (1)(a) that we say a judge in the Supreme Court or—*[Interruption]*

**Sen. Ramlogan SC:** They say “has served” so I presume that it means retired.

**Sen. Al-Rawi:** No. He means not in, a judge in or a judge out.

**Sen. Ramlogan SC:** Oh, I see, or he means in, sorry.

**Hon. Senator:** “of”.

**Sen. Prescott SC:** Thank you.

**Sen. Al-Rawi:** 32(1)(a) page 30.

**Mr. Chairman:** All right.

**Sen. Ramlogan SC:** Sen. Prescott, do you think it is overkill?

**Sen. Prescott SC:** Ah?

**Sen. Ramlogan SC:** Do you think it is overkill to have three? Should we just leave the judge alone?

**Sen. Prescott SC:** *[Laughter]*

**Sen. Ramlogan SC:** No, seriously, because you have to pay for these things and so on.

**Sen. Prescott SC:** No. You need another one because if you were to be unavailable through pressures of work—

**Sen. Al-Rawi:** Or have to recuse for some reason in-between.

**Sen. Prescott SC:** Or have to recuse himself.

**Sen. Singh:** Or he might be the athlete. [*Laughter*]

**Sen. Prescott SC:** It might be a good thing. We have young—

**Sen. Ramlogan SC:** All right. Well yeah we agree.

**Sen. Al-Rawi:** AG, it is an appeal.

**Sen. Ramlogan SC:** I know. Sure. So, 32, Chair.

**Mr. Chairman:** The question is that clause 32(1)(a) be amended by deleting the word in line two “in” and substituting the word “of”—[*Interruption*]

**Sen. Prescott SC:** One moment, please. Chair, in 32(5)—is that 32? Yes. In 32(5) we speak of “the Vice-Chairman” when 32(1)(a) speaks of two of them.

**Sen. Ramlogan SC:** Two, by (a). To change “the” to “a”.

**Mr. Chairman:** The question is that 32(5) be amended by deleting the word “the” in line two and substituting the word “a”.

*Question put and agreed to.*

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

*Clause 33.*

*Question proposed, That clause 33 stand part of the Bill.*

**Sen. Al-Rawi:** Question on clause 33(1)(a).

**Sen. Ramlogan SC:** Ah hmm.

**Sen. Al-Rawi:** Why did we want to limit appeals in the manner that we have (i) to (iv) because an appeal may be a bit more than just those grounds.

**Sen. Ramlogan SC:** Well maybe it is a policy matter that you “doh” want it to have, you know, an appeal. Remember you do not have a right of appeal unless the statute provides for it.

**Sen. Al-Rawi:** Correct. That is why I am asking the question.

**Sen. Ramlogan SC:** So we decided to circumscribe it to these four grounds, you know, the main primary—

**Sen. Al-Rawi:** If I could just ask; whether this is consistent with the code or the UNESCO Convention? Could we just double-check?

**Hon. Roberts:** They are double-checking.

**Sen. Ramlogan SC:** They are just double-checking. I am advised it is.

**Sen. Al-Rawi:** I figured it was, but I just want to make sure that I am not being too narrow.

**Sen. Prescott SC:** Are we still on 33?

**Sen. Al-Rawi:** Yeah.

**Mr. Chairman:** Sen. Prescott.

**Sen. Prescott SC:** Chair, may I raise a query about 33?

**Sen. Ramlogan SC:** Yeah.

**Sen. Prescott SC:** What is the outcome if the appeal panel is not able to deliver its reasons in time? Does that work to the advantage of the appellant? [*Crosstalk*]

**Mr. Chairman:** I did not quite—not able to—

**Sen. Prescott SC:** If the appeal panel—

**Sen. Ramlogan SC:** Yeah.

**Sen. Prescott SC:**—cannot comply with 33(2)(a), (b) or (c)—the timeline. Does that work to the advantage of the appellant? The appeal is allowed?

**Sen. Ramlogan SC:** “Where yuh getting that part from, the allowed part?”

**Sen. Prescott SC:** Umm?

**Sen. Ramlogan SC:** Where are you getting the allowed part from?

**Sen. Prescott SC:** No. I am saying, what is the outcome if the panel is unable to complete its work within the time?

**Sen. Ramlogan SC:** I am tempted to tell you, well look at the provisions of the CPR with respect to procedural appeals.

**Sen. Prescott SC:** But that is against the appeal panel. [*Laughter*]

**Sen. Ramlogan SC:** No. I do not think that we should provide—make any further provision. It is meant to be, you know—[*Interruption*]

**Sen. Prescott SC:** They should not have the power to extend the time because the appellant is at a point where he wishes to know whether he can go forward or not.

**Sen. Ramlogan SC:** Well, you want to change “shall” to “may”?

**Sen. Prescott SC:** It is admirable that you have put a time limit.

**Sen. Ramlogan SC:** You want to put “shall” to “may” then?

**Sen. Prescott SC:** No. Because we can—all I need to know is, can they extend the time or does it work to the advantage of the appellant, so he can go back to his events?

**Sen. Ramlogan SC:** Well, we should say (d)—[*Interruption*]

**Hon. Roberts:** Including.

**Sen. Ramlogan SC:**—extend the time—

**Sen. Prescott SC:** But not beyond—

**Hon. Roberts:** Making a decision.

**Sen. Singh:** An athlete is a very—

**Sen. Prescott SC:** It is very, very—yes.

**Sen. Singh:** So therefore I do not think we should.

**Sen. Prescott SC:** It should be to his advantage.

**Sen. Singh:** Yes. It should be to his advantage, so therefore let us keep it tight.

**Sen. Prescott SC:** Yes.

**Sen. Al-Rawi:** AG.

**Sen. Prescott SC:** So this must go on to say— [*Crosstalk*]

**Sen. Ramlogan SC:** And we do not. That is the point.

**Sen. Prescott SC:**—failing which—

**Sen. Ramlogan SC:** You see, I prefer to go for extension of time. You see, in Trinidad and Tobago we may not have the, you know, all the mechanisms in place.

**Sen. Al-Rawi:** And the time frame is short as it is.

**Sen. Ramlogan SC:** It is real short.

**Sen. Al-Rawi:** I had a question mark about 45 days versus procedural appeals—eight days, seven days.

**Sen. Ramlogan SC:** Well, you know what we should do. I will tell you what we will do, and I agree with Sen. Al-Rawi on this. What we can do is change the timelines in it. The 21, seven and 14. So, Mr. Prescott—

**Sen. Prescott SC:** Umm.

**Sen. Ramlogan SC:**—change those timelines for me.

**Sen. Prescott SC:** [*Laughter*]

**Hon. Senator:** To what?

**Sen. Ramlogan SC:** One month, one month, one month.

**Sen. Prescott SC:** No, the athlete has his business to get on with, “eh” and—  
[*Crosstalk*]

**Sen. Ramlogan SC:** Sure, sure.

**Sen. Al-Rawi:** On or before, within? The question is running out of time.

**Sen. Ramlogan SC:** Yes. Let us hear the Chair. The Chair had a suggestion.

**Sen. Oudit:** Chair, 40 days are given in other legislation; 40 days.

**Mr. Chairman:** I was wondering if it was business days or more.

**Sen. Al-Rawi:** In our laws it is 45 days for the CPR.

**Sen. Oudit:** In this one here it has 21 days, but in other legislation it has 40.

**Sen. Ramlogan SC:** Well, we put 14 in (b) and 21 in (c) would that not solve the problem?

**Sen. Oudit:** And 15 days instead of 14.

**Sen. Ramlogan SC:** So 21/14/21 and I think that would be reasonable.

**Sen. Prescott SC:** So it means that at the 35th day he would know what is his future.

**Sen. Ramlogan SC:** No. No. No. Within 21 days to hear and examine the evidence—

**Sen. Prescott SC:** Yes.

**Sen. Ramlogan SC:**—then—

**Sen. Prescott SC:** It is through a written—[*Crosstalk*]

**Sen. Ramlogan SC:** 14 days thereafter and then 21 days thereafter.

**Sen. Prescott SC:** So therefore on the 35th day he will know the decision. He has not seen the written reasons, but he knows.

**Sen. Ramlogan SC:** Well it would be 21 plus 14.

**Sen. Prescott SC:** Yes. That is what I mean.

**Sen. Ramlogan SC:** Yes. That is fine.

**Sen. Prescott SC:** You worked out 21 and 14?

**Sen. Ramlogan SC:** No.

**Sen. Prescott SC:** 35. That is right. That is what I was telling you.

**Sen. Al-Rawi:** The answer is, yes, not no. [*Laughter*] I found the answer to my question on limitations.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** It is broader in most other places. The UK for instance has additional—

**Sen. Ramlogan SC:** Additional, but they still circumscribe the grounds.

**Sen. Al-Rawi:** Yes. They circumscribe, but it is slightly broader to include jurisdictional challenges which is important.

**Sen. Ramlogan SC:** Well you “doh” need to put that here to really have it because you could JR them on it if it is a jurisdictional challenge, you know.

**Hon. Roberts:** Let me just tell the learned committee to try your best to keep the timelines as tight as possible.

**Hon. Senator:** Yes.

**Hon. Roberts:** Remember they are not going to have a huge case load. You know, the positive tests are not that much and you do not want to leave the athlete in any limbo—

**Sen. Al-Rawi:** No. Good point.

**Hon. Roberts:**—you want to get the—discuss, “boonsadone” [*Crosstalk*]

**Sen. Ramlogan SC:** Well then let us just leave it. Well, what we have here, we were going to change—we are leaving 21 as is; 14 and 21 perhaps. [*Crosstalk*]

**Hon. Senator:** 21/7.

**Sen. Al-Rawi:** AG, perhaps the seven is okay if they have the benefit of CAT reporting for instance, where like the Court of Appeal does where they now give written reasons by transcript.

**Sen. Ramlogan SC:** Now listen, 21/14, 21/14, 21 is not bad in our—let us be realistic about our own situation in Trinidad, please guys. All right.

**Hon. Roberts:** No. But these are routine—

**Sen. Ramlogan SC:** No. No. They will get the decision [*Crosstalk*] within— instead of seven they will get it within 14 days.

**Hon. Roberts:** “Why they need a whole extra seven days?” [*Crosstalk*] Okay, 21/14 not a problem.

**Sen. Ramlogan SC:** Is a retired judge you dealing with.

**Sen. Prescott SC:** Mr. Chairman, I return to the original question; what if they fail?

**Mr. Chairman:** I was going to ask the same.

**Hon. Roberts:** What it is, 21/14/21?

**Sen. Prescott SC:** If the appeal panel has failed to comply. We have agreed, it seems to work to the advantage—

**Sen. Ramlogan SC:** Yeah, yeah. I know.

**Sen. Prescott SC:**—it does not say here what becomes of it.

**Hon. Senator:** That is the end of that.

**Sen. Prescott SC:** The appeal shall be deemed to have been allowed?

**Sen. Ramlogan SC:** You see, I am hesitant for this reason.

**Hon. Roberts:** Yeah. Do not—

**Sen. Ramlogan SC:** I am hesitant for this reason. Suppose you put strict statutory timelines with a drastic consequent like that, and suppose the panel wanted to refer the matter to an expert, an independent expert, and the expert then takes two weeks, you know what I mean, to produce his report. Because I can well see in a situation like this, you are dealing with a retired High Court Judge. [*Laughter*]

**Sen. Prescott SC:** Well, that does not mean he is a retiree.

**Sen. Ramlogan SC:** You understand. No. No. I am saying that you would expect a certain high level of efficiency. And the point is that, you know, in dealing with the matter—I mean let us look at the other appellate tribunals which we have composed similarly. You know, whether it is the Public Service Appeal Board or whatever. I mean, let us look at the realities as well.

**Sen. Prescott SC:** My concern, AG, is that he might lose his chance forever.

**Sen. Ramlogan SC:** Sure. Sure.



**Sen. Prescott SC:** The next Olympics is four years down the road.

**Sen. Ramlogan SC:** Sure. Sure. Sure. Sure. I hear you. So I am saying, look let us strike an intermediate, not to dismiss it, but perhaps make—that he can apply. You know in the Industrial Court there is a provision that if they do not deliver in time, they must give reasons. Some law we pass here, they must give reasons or they must call you back and explain why they need more time or something.

**Hon. Roberts:** They cannot include any aspect of dropping or dismissing because of the tardiness of the appeal because in essence a positive test is so difficult to obtain in the first place because of thresholds and so on. So if you want to tell them that they can request or get a little one-week extension or something, fit in something like that, but do not say that failure of the appeal committee to—

**Sen. Ramlogan SC:** Yeah.

**Hon. Roberts:**—give a written decision means that a cheater might get off or else we kind of defeating the purpose.

**Sen. Prescott SC:** So that they would be permitted to extend the time for how much for example?

**Hon. Roberts:** Well—

**Sen. Prescott SC:** Then what happens, we are still left with—and then so what?

**Hon. Roberts:** To a reasonable amount of time. [*Crosstalk*]

**Sen. Al-Rawi:** He means the consequence. What if they fail? There must be some sanctions to the end of it.

**Hon. Senator:** And get closure.

**Sen. Prescott SC:** Benefit to the appellant.

**Hon. Roberts:** Because there is another—

**Sen. Ramlogan SC:** Well, can we say that we give them power to extend up to a further month—

**Sen. Prescott SC:** At which point.

**Sen. Ramlogan SC:**—at which point the appeals are dismissed.

**Hon. Roberts:** No. No. No. No.

**Sen. Al-Rawi:** That would be preferred.

**Sen. Ramlogan SC:** No, well the Minister does not want the dismissal.

**Hon. Roberts:** No. No. No. No. What we do if our appeal board is unable to come to a decision in that time it must be immediately referred to the WADA appeal board or the CAS or somebody who has the capability or the capacity to come through.

**Sen. Prescott SC:** Well then, let us go back to 21 and seven.

**Hon. Senator:** Yes.

**Sen. Singh:** I agree with that.

**Sen. Ramlogan SC:** So 21, 7, 14 we leave it as is.

**Sen. Prescott SC:** And failure which, you go to WADA.

**Sen. Ramlogan SC:** Failure—*[Interruption]*

**Hon. Roberts:** Failure.

**Sen. Ramlogan SC:**—to determine—but hold on one second. You put that there, you know what is going to happen?

**Sen. Prescott SC:** No.

**Sen. Ramlogan SC:** Everything will go to WADA.

**Sen. Prescott SC:** Really?

**Hon. Roberts:** “Nah man.”

**Sen. Prescott SC:** “Nah”. *[Laughter]*

**Sen. Ramlogan SC:** I hope not. All right. We will insert a clause, Sir, to say that—*[Interruption]*

**Mr. Chairman:** So you are going to make a subclause (3)?

**Sen. Ramlogan SC:** Well it will be, yes, or we could put it as (d), 2(d). In (2)(d) we will say that, “if no written decision and reasons”—*[Crosstalk]*

**Sen. Oudit:** It should be 3.

**Mr. Chairman:** I would think so.

**Sen. Ramlogan SC:** Well all right 3, it does not matter; 2(d), (3) it does not matter. Yeah 3. Three. Three. Three. “If no written decision and reasons”—

**Mr. Chairman:** “Are given within the allotted time”—

**Sen. Ramlogan SC:**—“are given within the allotted time referred to in subsection (2). *[Interruption]* No?”

**Sen. Hinds:** You are talking about reasons for the delay?

**Sen. Al-Rawi:** You might get a decision and no reasons, AG, as happens in court with us and you are stuck with it that way.

**Sen. Ramlogan SC:** That is why I am saying “decisions and reasons”. Both.

**Hon. Roberts:** So if you do not go with everything. [*Crosstalk*] If the appeal committee does not provide you with everything which is decisions and reasons, then it is immediately referred to WADA for them.

**Sen. Al-Rawi:** Suppose they make a decision but is just the reasons that are missing. [*Crosstalk*]

**Sen. Ramlogan SC:** No you could provide both, that is what I am saying. Both.

**Hon. Roberts:** WADA will refer [*Crosstalk*]

**Sen. Ramlogan SC:** Both.

**Hon. Roberts:** WADA will go through the decision and give reasons for— [*Interruption*]

**Sen. Al-Rawi:** I have just the English and American rules which do not have what we are seeking to do. They do not have the, “if you fail to do this” thing that it is at an end or it goes somewhere else to accelerate it.

**Sen. Ramlogan SC:** Right. Okay.

**Sen. Al-Rawi:** So it is laudable what we are thinking.

**Sen. Ramlogan SC:** But is it sensible?

**Sen. Al-Rawi:** But [*Crosstalk*] yeah.

**Hon. Senator:** They assume it will be as is.

**Sen. Drayton:** I really do not feel there should be any— [*Interruption*]

**Sen. Ramlogan SC:** Any further thing.

**Sen. Drayton:** For going here and there.

**Sen. Al-Rawi:** Yeah. Because you may be contracting out of the WADA position or the code.

**Hon. Roberts:** So you believe that if they fail that— [*Interruption*]

**Mr. Chairman:** It should stay as is.

**Sen. Al-Rawi:** All right.

**Sen. Ramlogan SC:** So leave it as is. [*Crosstalk*]

**Sen. Al-Rawi:** But AG—

**Hon. Roberts:** The appeal committee has to be instructive.

**Sen. Al-Rawi:** Question; would you then as a litigant have a right to say, “you the appeal panel have caused me prejudice” and take action?

**Sen. Ramlogan SC:** You may.

**Sen. Al-Rawi:** We may have a right on that.

**Mr. Chairman:** It is a constitutional Motion.

**Sen. Ramlogan SC:** Exactly. Chair, the problem I have with conferring it on WADA is because I do not know that we could impose these cases on WADA for adjudication, you know. So I think look, let us leave it as is, and let the chips fall where they must. [*Crosstalk*]

**Hon. Roberts:** Okay. All right. I agree with Sen. Drayton because what would happen is—remember once there is an adverse finding, WADA will be aware. If we say all right it is dismissed because we did not follow this, WADA has the opportunity, if so to do, to appeal to the Court of Arbitration for Sport and it will be dealt with there. So leave it as is and if the appeal committee fails to do its job in the time, it is dismissed locally. WADA will have to take it on if they so feel.

**10.45 p.m.**

**Sen. Al-Rawi:** Can I just raise something that is recommended under the appeal procedure in England? I do not know if we have the equivalent here. I did a quick double-check and I think in answer to my own question, subject to what your team says through you, that 31(1)(a) to (g) probably captures everything. I just want a confirmation, yes?

**Parliamentary Counsel:** Yes.

**Sen. Al-Rawi:** Right. Secondly, there is a provision in the English rule: Each interested party if not joined as a party to the appeal shall have the right to be kept apprised of the status and outcome with reasons of the appeal as well as the right to attend appeal hearings as an observer. Then they go on to provide the circumstances, “a decision on appeal that an anti-doping has been committed shall be disclosed publicly without delay unless a further appeal right exist”—and then they go in the alternative. So what they have done is to provide an interesting position as to publicity and disclosure and other factors which I know—[*Interruption*]

**Hon. Roberts:** Is there a definition of “without delay”?

**Sen. Al-Rawi:** They do not have one, so I think that that would—[*Interruption*]

**Mr. Roberts:** So it is a reasonable time?

**Sen. Al-Rawi:** Yes.

**Sen. Ramlogan SC:** I think we will stick with what we have.

**Sen. Prescott SC:** May I just bring to the attention of Members, in clause 30(1) there is a quaint thing about there being:

“...an appeal from a decision of The Disciplinary Panel shall tie to the Appeal Panel, with a further appeal to the Court of Arbitration.

I suppose further there means an appeal—*[Interruption]*

**Sen. Ramlogan SC:** That is a Privy Council you are talking about.

**Sen. Prescott SC:** Okay, is that—*[Interruption]*

**Hon. Roberts:** That is an appeals decision.

**Sen. Prescott SC:** When we look at what we are looking at, when we take that into account with 33(2), does it mean that that is the appeal provision there? If the appeal body has not done its work.

**Sen. Ramlogan SC:** Yes.

**Sen. Prescott SC:** You may appeal to the Court of Arbitration?

**Sen. Ramlogan SC:** Well, yes.

**Sen. Prescott SC:** Can that be it?

**Sen. Ramlogan SC:** Yes. Yes.

**Hon. Roberts:** Correct.

**Sen. Al-Rawi:** I do not think so, you know, because—*[Interruption]*

**Sen. Ramlogan SC:** The problem with that is you cannot appeal without a decision.

**Sen. Al-Rawi:** That is right, or without reasons.

**Sen. Ramlogan SC:** Yeah, or without reasons.

**Sen. Prescott SC:** So you can appeal that failure.

**Sen. Al-Rawi:** Well, that has been tested in our courts, the delay already.

**Sen. Prescott SC:** So, what is this further appeal?

**Sen. Ramlogan SC:** The further appeal is if you are dissatisfied with the appeal panel, you could further appeal, the same way you “does” appeal from the Court of Appeal to the Privy Council. It is the final appellate board.

**Sen. Prescott SC:** Yes. Okay. So that does not result to the—*[Interruption]*

**Sen. Ramlogan SC:** No, it does not. No, it does not.

**Mr. Chairman:** The question is that clause 33 now stand part of the Bill.

**Sen. Al-Rawi:** Oh sorry, just one question. The use of the word “sanction”, I noticed in other legislation they put “consequences”—*[Interruption]*

**Sen. Ramlogan SC:** “For wha”?

**Sen. Al-Rawi:**—as opposed to sanction, because a sanction—*[Interruption]*

**Mr. Chairman:** In what?

**Sen. Al-Rawi:** In 33(1), wherever we have “sanction”. For instance 33(a)(1)—

**Sen. Ramlogan SC:** Instead of “sanction”, what?

**Sen. Al-Rawi:**—“consequences”, because “consequences” includes something which may not necessarily be a sanction but something which you may want to look at.

**Sen. Ramlogan SC:** “Nah”, we wanted sanctions.

**Hon. Roberts:** “We find they too soft.”

**Sen. Ramlogan SC:** It might be a synonym.

**Hon. Roberts:** They try to leave a lacuna to leave out their top athletes to get off.

**Sen. Ramlogan SC:** Sanctions include consequences and consequence is a sanction.

**Sen. Al-Rawi:** Okay. *[Laughter]* How you like that one, Senior?

**Hon. Roberts:** Yes, “we good to go”.

**Mr. Chairman:** Anything on 34?

**Sen. Al-Rawi:** Oh sorry, the question of costs.

**Hon. Roberts:** It is wrong or—*[Inaudible]*

**Sen. Al-Rawi:** Costs.

**Hon. Roberts:** “What is de cost?”

**Sen. Al-Rawi:** “Such further or other decision as the nature of the case may require”—do you think it captures that? Yes.

**Sen. George:** Yes.

**Sen. Ramlogan SC:** Yes, if you want because—*[Interruption]* “Nah”, no cost. *[Crosstalk]* You might get a different kind of “coss” right now. *[Laughter]* Costs are issues; beg your pardon, costs.

**Sen. Al-Rawi:** I am thinking about the AG when he leaves this job at some point, eh. *[Laughter]*

**Sen. George:** You might be thinking about Fitzgerald Hinds.

**Hon. Roberts:** How “all yuh” bring Hinds in that one? *[Crosstalk]*

*Question put and agreed to.*

*Clause 34 ordered to stand part of the Bill.*

*Clause 35.*

*Question proposed:* That clause 35 stand part of the Bill.

**Sen. Prescott SC:** Would someone please explain what 35(1) really says? “With particular reference to the”—*[Interruption]*

**Sen. Ramlogan SC:** There really seems to be a conflict of interest kind of thing.

**Hon. Senator:** Yes.

**Hon. Roberts:** That is to make sure we do not end up with the Integrity Commission—*[Interruption]*

**Sen. Prescott SC:** Okay. So, my question is, can we comprehend what it is saying?

**Hon. Roberts:** “Oooh”.

**Sen. Ramlogan SC:** Well, that is a different—*[Interruption]*

**Hon.. Roberts:** Oh, could someone clarify—*[Interruption]*

**Sen. Ramlogan SC:** You see, we could not comprehend what you “was” asking. *[Desk thumping]*

**Sen. Prescott SC:** That should be, you were; that should be, you were asking. *[Laughter]*

**Sen. Ramlogan SC:** But I catch it.

**Sen. Prescott SC:** It does not read well at all.

**Sen. Ramlogan SC:** Yes, “...shall declare any interest”—you could leave out direct or indirect, that he has—*[Inaudible]*

**Sen. Prescott SC:**—“or ought reasonably to know that he has, in any matter in relation to which he is required to make or participate in making of a decision”—*[Crosstalk]* And then they say it is “in the exercise of that function...” It sounds as though somebody was cutting and pasting.

**Hon. Roberts:** That was pasted exactly out of the Integrity in Public Life Act.

**Mr. Chairman:** Attorney General, if we start from line 3 “in any matter in relation to which he is required to make or participate in the making of a decision...”

**Sen. Prescott SC:** Full stop.

**Sen. Ramlogan SC:** Not full stop.

**Hon. Roberts:** In the words of Prof. Ramkisson—*[Interruption]*

**Mr. Chairman:** Can we continue and then go back to the exercising of function?

**Sen. Ramlogan SC:** Yes, I think that would solve it, Chair.

**Mr. Chairman:**—“shall declare any direct or indirect interest that he has, or ought reasonably to know that he has”—*[Interruption]*

**Sen. Prescott SC:** “...in any matter...”

**Mr. Chairman:**—“and shall cease to participate in the decision-making process.”

**Sen. Prescott SC:** Therefore, we are deleting “in relation to which”.

**Sen. Al-Rawi:** Declare his interest.

**Mr. Chairman:** I am starting with, “in any matter in relation to which”—

**Sen. Prescott SC:** “...he is required to make or participate in the making of a decision”—*[Interruption]*

**Sen. Ramlogan SC:** You could take out “in the exercise of that function”, you know.

**Sen. Prescott SC:** Those are the words that I think are troubling me.

**Sen. Ramlogan SC:** Yes, take off that: “in relation to which he is required to make or participate in the making of a decision”—*[Interruption]*

**Sen. Prescott SC:** “...and shall cease”—Yeah?

**Mr. Chairman:** “...and shall cease to participate in the decision-making process.”

**Sen. Prescott SC:** Shall cease, yeah. That is what makes sense.

**Sen. Ramlogan SC:** Let us hear it one last time, “nah”.

**Mr. Chairman:** So I am suggesting it starts off, 35(1):

“In any matter in relation to which he is required to make or participate in the making of a decision, a person exercising a function under this Act shall declare any direct or indirect interest that he has or ought reasonably to know that he has”—*[Interruption]*



**Sen. Prescott SC:** "...and shall cease".

**Mr. Chairman:**—"and shall cease to participate in the decision-making process".

**Sen. Ramlogan SC:** Well, I would not have put the last part, "eh". Because suppose he declares the declaration of the interest is such that it may be minuscule and they may tell you having declared it, we want you to continue to participate. You may be the one with the expertise.

**Sen. Prescott SC:** But what would you put instead?

**Sen. Ramlogan SC:** Nothing, I would leave it like that. Nothing, I would leave it as is, because the conflict of interest is not illegal provided you declared it. It may be minimal.

**Sen. Al-Rawi:** True.

**Sen. Ramlogan SC:** So I would leave out the last part, "and shall cease to participate". [*Crosstalk*] Well, having declared it.

**Sen. George:** Well then, what is the purpose of the clause?

**Sen. Ramlogan SC:** No, the purpose of the clause is the fact of the declaration so that they can now—your colleagues—decide to tell you, well, look, you know, you should step aside or not.

**Sen. Prescott SC:** And where in the legislation says that?

**Sen. Ramlogan SC:** "Eh"?

**Sen. Prescott SC:** Does the legislation—the legislation does not say— [*Interruption*]

**Sen. Ramlogan SC:** No, the legislation does not, but the principles of natural justice which would be imbued in the statutes say that.

**Sen. Prescott SC:** Oh, we have a gentleman here, what was his name in the commission of enquiry?

**Sen. Ramlogan SC:** Which one?

**Sen. Prescott SC:** I "doh" want to call his name, but he does not even understand he is in a bad position. There are people who will sit there and say, well, I have declared, I am still going ahead with this and my colleague is not going to tell me do not sit.

**Sen. Ramlogan SC:** So you want to leave it in?

**Sen. Prescott SC:** I think he should cease to participate.

**Sen. Hinds:** As a matter of fact, we should remove him off that commission.

**Sen. Ramlogan SC:** I think I prefer to leave Sir David where he is.

**Sen. Prescott SC:** I do not think we should hope that his colleagues can prevail upon him.

**Sen. Ramlogan SC:** Chair, well I mean—[*Inaudible*]

**Hon. Roberts:** As you have it.

**Mr. Chairman:** You wanted—what it is?

**Sen. Ramlogan SC:** We will leave it in; I personally do not care to, but you know.

**Mr. Chairman:** Shall I read the clause again?

**Sen. Al-Rawi:** Yes.

**Mr. Chairman:** Clause 35(1) shall now read:

“In any matter in relation to which he is required to make or participate in the making of a decision, a person exercising a function under this Act shall declare any direct or indirect interest that he has or ought reasonably to know that he has”—[*Interruption*]

**Sen. George:**—“and shall cease”—

**Mr. Chairman:**—“and shall cease to participate in the decision making process.”

*Those in favour, say aye.*

**Sen. Prescott SC:** No, one more. But 35(2) requires—I mean I just called two—how does he contravene subclause (1)?

**Sen. Al-Rawi:** By failure to declare.

**Sen. Prescott SC:** Well, we need to say that.

**Sen. Al-Rawi:** And failure to remove himself.

**Sen. Prescott SC:** We need to say that.

**Mr. Chairman:** So, that is how he—[*Interruption*]

**Hon. Roberts:** That is how he contravenes himself. He contravenes it by not declaring it.

**Sen. Ramlogan SC:** And “A person who fails to declare in accordance with subsection (1)—[*Interruption*]

**Sen. Prescott SC:** Commits an offence.

**Sen. Ramlogan SC:**—“commits an offence and is liable, on summary conviction...”

**Sen. Prescott SC:** Thank you.

**Mr. Chairman:**—who fails to declare, make a declaration, I suppose.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** Yes.

**Mr. Chairman:** A declaration in accordance with subsection (1).

**Sen. Ramlogan SC:** No, I do not think he would have—[*Inaudible*]

**Sen. Al-Rawi:** Yeah, yeah, I see. Because he would have stayed on anyway, so it is not bifurcate.

**Mr. Chairman:** We happy with that?

**Sen. Ramlogan SC:** Chair, I just want to raise one small point. Sen. Prescott, the language used in several preceding clauses for the composition of some of these bodies is “shall”. So, if for example you look at the composition of the appeal panel, it “shall” comprise seven members.

**Sen. Prescott SC:** Yes.

**Sen. Ramlogan SC:** If you look at the disciplinary panel and throughout the word used is “shall”. Now, the concern is, if someone is conflicted and they are forced to remove themselves, would it, in light of the use of the word “shall”, would the body still be properly constituted in law?

**Sen. Prescott SC:** No, not unless you have a quorum provision.

**Sen. Ramlogan SC:** Well, that is the point, and I do not know—[*Interruption*]

**Sen. Prescott SC:** What you want to achieve?

**Sen. Ramlogan SC:** Well, I want to achieve that the work is not frustrated and they cannot act. You see—

**Sen. Prescott SC:** So if you say “no more than”, is that what you want?

**Sen. Ramlogan SC:** Well, I just want to make sure that they could still act if that happens. Like if the chairman, for example, is conflicted.

**Sen. Prescott SC:** Let us take the time to introduce a quorate provision that applies to all—[*Interruption*]

**Sen. Ramlogan SC:** We do have quorum, we do have quorum. No?

**Parliamentary Counsel:** Yes.

**Sen. Ramlogan SC:** We do. I will leave that, we do have quorums actually.

**Sen. Prescott SC:** We do?

**Sen. Ramlogan SC:** Yes, we do.

**Sen. Al-Rawi:** Provided, yes. Well not for the disciplinary panel, it is three.

**Sen. Ramlogan SC:** For the Board but not for the disciplinary panel?

**Sen. Al-Rawi:** No.

**Sen. Ramlogan SC:** Or, we do not have for the disciplinary panel and that is where—oh, I thought we did. Well, we should put a quorum for the appellate panel, you know, because as it stands right now all seven people have to be present. Is it?

**Sen. Prescott SC:** Yes.

**Sen. Al-Rawi:** Potentially, yes.

**Hon. Senator:** No less than three.

**Sen. Ramlogan SC:** We should put a quorum for the appeal panel, Chair.

**Mr. Chairman:** So you want to go back to which clause?

**Sen. Ramlogan SC:** 32.

**Mr. Chairman:** 32?

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** Yes, that is a good point.

**Sen. Ramlogan SC:** And say, “three members shall constitute a quorum”. All right?

**Sen. Al-Rawi:** Yes.

**Sen. Ramlogan SC:** So, we would put that as 32—*[Interruption]*

**Mr. Chairman:** (10)

**Sen. Ramlogan SC:**—(10), yes. Thanks.

**Mr. Chairman:** “A quorum for the appeal panel shall be not less than”—*[Interruption]*—shall be how many people?

**Hon. Roberts:** Shall be three.

**Mr. Chairman:** “A quorum for the appeal panel shall consist of three persons”?

**Hon. Roberts:** “Or no less than three persons”.

**Mr. Chairman:** “Shall consist of no less than...”.

**Hon. Roberts:** How is it normally worded?

**Sen. Al-Rawi:** Either way you can say it, so long as you are clear and convey the intention.

**Sen. Prescott SC:** One could simply say, “Three members shall form a quorum.”

**Hon. Roberts:** Yes.

**11.00 p.m.**

**Mr. Chairman:** So, “three members shall form a quorum for the Appeal Panel”. So what we are doing is that we are revisiting clause 32.

*Clause 32 recommitted.*

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

**Mr. Chairman:** We are introducing a “New subclause (10)” to read:

“(10) Three members shall form a quorum for the Appeal Panel.”

*Question put and agreed to.*

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

And we are back to clause 35.

*Clause 35 reintroduced.*

Shall I read the amendments for clause 35 as I have it.

“35(1) ...in any matter in relation to which he is required to make or participate in the making of a decision, a person exercising a function under this Act shall declare any direct or indirect interest that he has, or ought reasonably to know that he has, and shall cease to participate in the decision-making process.

(2) A person who fails to make a declaration in accordance with subsection (1) commits an offence and is liable, on summary conviction, to a fine of twenty-five thousand dollars.”

*Question put and agreed to.*

*Clause 35, as amended, ordered to stand part of the Bill.*

*Clauses 36 to 38 ordered to stand part of the Bill.*

*Clause 4 recommitted.*

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

**Mr. Chairman:** We are revisiting clause 4, the definition section—I do not recall—we have introduced a new definition, did we not, called “Doping”, so shall I read that:

“Doping means any violation of the Anti-Doping Rules.”

That will be inserted in the alphabetical order within the definition section.

**Sen. Al-Rawi:** Could I just raise two small queries. The first one is on pages 8 and 9. One relates to “national-level athlete” and one relates to “Registered Testing Pool”. Perhaps it may be just a need of explanation:

“national-level athlete” means a person, other than an international-level athlete, who is designated by TTADO, or the national anti-doping organisation of a country other than Trinidad and Tobago, as being within the Registered Testing Pool of TTADO...”

Jump down now to Registered Testing Pool:

“Registered Testing Pool” means the pool established by each International Federation and National Anti-Doping Organisation of international-level athletes...”

So the first one, “national-level athletes” said that there are to be people in the Registered Testing Pool, but the “Registered Testing Pool” is only in respect of international-level athletes. I did not quite understand it.

**Sen. Ramlogan SC:** I see your point, and I think we can solve it by saying: “Registered Testing Pool includes,” and we would be okay with that. So instead of “Registered Testing Pool means” it should read: “Registered Testing Pool includes”—includes the pool established by so and so. Okay, and that will solve it.

**Sen. Al-Rawi:** Then the last one is, turn the page, to page 10, 4(2), the middle of the page:

“(a) in-competition during the period commencing twelve hours before he is scheduled to participate in a competition through to the end of the competition and any sample collection process related to the competition, unless provided otherwise in the rules of an International Federation...”

So for the purposes of this Bill:

“an athlete is—

in-competition during the period commencing twelve hours before...”

Going through the competition read these words now:

“...and any sample collection process related to the competition.”

Is it that the process may extend beyond the competition? *[Interruption]*

**Hon. Roberts:** Correct. You have until 12 hours. So if you swim the last event at 10 o'clock, you have until 12 hours after that to provide a sample. So the competition will be over, but your sample period stays.

**Sen. Al-Rawi:** Okay, good, I just wanted to be sure.

**Sen. Ramlogan SC:** Okay, Chair, “you good to go”.

**Mr. Chairman:** So the question is—sorry, Senator.

**Sen. Prescott SC:** If we could go back to page 6, “event”, and just to tell me what is the source of the definition or if it is ours, why a series as opposed to a single competition?

**Mr. Chairman:** A “single” or a “series”?

**Sen. Prescott SC:** Yes, if the definition is taken from a source, identify the source. If not, and this is our own conjuring up, then I would like to know why “an event” means a series of competitions as opposed to one competition.

**Mr. Chairman:** I think again maybe it is “includes”—is it “includes” you have in mind there?

**Sen. George:** In the 100 metres or 200, you have to run a set of things to qualify. You have heats—*[Interruption]*

**Sen. Al-Rawi:** Can we just check the codes? The English one says: “event” is the definition in the code. Once we know what the code says we should be okay *[Crosstalk]* the definition of event in the code. I am suggesting that it may be in the codes, so if the team could probably look at it?

**Mr. Chairman:** You see “event” is singular, so I suspect you meant that it also includes a series of individuals. That is why I am suggesting “includes”.

**Sen. George:** Well, no, no, event means a series, because if they are running a 100-metre they are qualifying, you know. So you have heat 1, heat 2—heat 1 and then you run the other heat and, you know, to qualify for the finals.

**Sen. Al-Rawi:** Okay, here is the definition of “event” in the code. “Event” in the code is:

“a series of individual *Competitions*...”

“Competition” appears to be a definition.

“...conducted together under one ruling body (eg the Olympic Games, FINA World Championship, or Pan American Games).”

“Competition” is defined separately—[*Interruption*]

**Hon. Senators:** It is the same thing.

**Sen. Al-Rawi:** Right, a single race match, game or singular athletic contest, for example, basketball, et cetera. So that is how the code defines it.

**Sen. Prescott SC:** So the sports people here, a marathon which does not usually have heats, so it is only one competition does not qualify.

**Hon. Roberts:** Yes it does.

**Mr. Chairman:** That is what I am saying, “includes” would then capture both single event—

**Sen. George:** We might have to put “includes”. [*Crosstalk*]

**Mr. Chairman:**—and one that involves a series of events.

**Sen. Al-Rawi:** You see, the difference is, competitions in this paragraph here for event is defined separately in the code as being a single event. So that is where the difficulty comes.

**Mr. Chairman:** It “includes” to capture both.

**Sen. Prescott SC:** It seems to me it has to say includes.

**Sen. Al-Rawi:** I looked at the Code—[*Crosstalk*] an “event”, so Sen. Prescott looked at “event” and I looked at the code and their definition of “event” refers to a competition, and “competition” is the singular one.

**Hon. Senators:** [*Inaudible*]

**Sen. Al-Rawi:** Well here we go, the difference in here we could solve it by the use of a capital C, in the definition of a “competition” and in the “event”.

**Sen. Ramlogan SC:** So “event includes”, Chair, and we move on.



**Sen. Al-Rawi:** AG, “competition” is defined, means a sporting activity consisting of a single race. The use of the word “competition” in the definition of “event” that was meant to be the intention. So, “event means” a series of individual competitions.

**Sen. Ramlogan SC:** So what you are saying is that we do not have a problem then.

**Sen. Al-Rawi:** I do not think we do if you read “competition” as being defined. So if we put a capital C it would have solved it.

**Sen. Ramlogan SC:** I know, but I think if we put “includes”—

**Sen. Al-Rawi:** “Includes” will probably do it.

**Sen. Ramlogan SC:** There may be other things we cannot think of right now, you understand, so we will change “event means” to “event includes”; right. Chair, just to go back to the earlier change that I have made with respect to Registered Testing Pool and national-level athlete, the error lies in the definition of national-level athlete. Instead of saying: “as being within the Registered Testing Pool of TTADO”, we need to say: “the Registered Testing Pool of that country.” [*Crosstalk*]

**Sen. Al-Rawi:** Sporting activity, single race and athletic contest.

**Sen. Ramlogan SC:** And we leave “Registered Testing Pool” as is.

**Hon. Senator:** What—

**Sen. Ramlogan SC:** The change we made earlier, to “national-level athlete” and “Registered Testing Pool”. “Registered Testing Pool” will stay as is and in “national-level athlete” it will now read:

“national-level athlete” means a person other than a national-level athlete who is designated by TTADO or the national anti-doping organisation of a country other than Trinidad and Tobago as being within the Registered Testing Pool of that country.”

**Mr. Chairman:** So not “TTADO”.

**Sen. Ramlogan SC:** No, “of that country”.

**Sen. Al-Rawi:** Yeah, that would clarify.

**Sen. Ramlogan SC:** And “Registered Testing Pool” we leave it as is.

**Mr. Chairman:** So let me go through the amendments for clause 4. The introduction of a new definition:

“Doping” means any violation of the Anti-Doping Rules”.

The definition of “event”, to be amended, delete the word “means” and insert “includes”.



Maharaj, Hon. D.  
 Ramnarine, Hon. K.  
 Herry, Miss P.  
 Hinds, F.  
 Henry, Dr. L.  
 Cudjoe, Miss S.  
 Al-Rawi, F.  
 Ali, Mrs. S.  
 Ramkhelawan, S.  
 Baptiste-Mc Knight, Mrs. C.  
 Drayton, Mrs. H.  
 Ramkissoon, Prof. H.  
 Wheeler, Dr. V.  
 Prescott SC, E.  
 Armstrong, Dr. J.  
 Bernard, Dr. L.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

#### ADJOURNMENT

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you, Mr. President. I want to congratulate all Members for their very effective participation late into the night. We had planned, Mr. President, to adjourn to Tuesday 21st, however, because of the Motion of No Confidence scheduled in the other place for the 20th, it will impact upon the sitting of this House. So as a result I have to adjourn to a date to be fixed.

**Mr. President:** Before putting the question to the Senate, in relation to the adjournment, I just want to remind Senators that I circulated a letter relating to Private Members' Motions and I look forward to comments within the time frame allotted in that letter.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 11.20 p.m.*

Tuesday, May 14, 2013

**WRITTEN ANSWER TO QUESTION**

*The following question was asked by Sen. Fitzgerald Hinds earlier in the proceedings:*

**Court Matters  
(Details of)**

**46 Sen. Fitzgerald Hinds** asked the Attorney General:

With respect to court matters arising during the period 1st January, 2008 to 1st December, 2012 in which the State is a party, could the hon. Attorney General indicate:

- (a) the number of matters referred to the Privy Council for each such year;
- (b) the total legal fees paid to local and foreign-based lawyers for each year during the said period;
- (c) the names of the respective attorneys/law firms who represented the State of Trinidad and Tobago in such matters; and
- (d) the number of such matters resolved and the outcomes in each case? [*Sen. F. Hinds*]

*The following reply was circulated to Members of the Senate:*

**The Attorney General (Sen. The Hon. A. Ramlogan SC):**

**2008**

- A. For the year 2008, eight (8) matters were referred to the Privy Council.
- B. In relation to the 8 matters referred to the Privy Council in 2008 there were no fees charged by or paid to local based lawyers. The total legal fees charged by foreign based lawyers amounted to £344,139.78

The charges for each matter may not in all instances have been invoiced in the same year the matter was referred. Additionally, the payment dates for the fees charged varied according to the payment process managed by the accounts department of the Ministry of the Attorney General. Of the fees charged based on matters arising in 2008, however, the records show that the total charged has been paid.

*Written Answer to Question*

*Tuesday, May 14, 2013*

C. The names of the respective attorneys/law firms who represented the State of Trinidad and Tobago at the Privy Council in matters that arose in 2008 are as follows:

- Charles Russell – John Almeida (Instructing Solicitors)
- Mr. James Guthrie QC
- Mr. James Dingemans QC
- Mr. Doug Bennett – Costs draftsman
- Mr. Aiden Casey
- Miss Cressida Jauncey
- Mr. James Lewis
- Mr. Alan Newman QC
- Mr. Mark Strachan QC
- Mr. Peter Thornton QC
- Mr. Christopher Sallon QC

\*John Almeida is an Attorney at Law at Charles Russell, LLP, the firm that has been traditionally retained as Instructing Solicitors on behalf of the State in all matters that are referred to the Privy Council.

D. All 8 matters referred to the Privy Council in 2008 were resolved.

- In 4 matters, the outcomes were favourable to the State – whereby the appeals were either dismissed or withdrawn.
- One application for permission to appeal to the Privy Council was rejected in favour of the State
- In 3 matters, the outcomes were unfavourable for the State.

**2008**

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
1	PCA 22 of 2008 – Patrick Manning v Chandresh Sharma	Charles Russell – JGA <sup>i</sup> –  Mr. James Guthrie QC	Appeal dismissed-Payment received – matter closed
2	PCA 30 of 2008 – Lennox Phillip a/c Yasin Abu Bakr v The AG	Charles Russell – JGA – Mr. James Dingemans QC Mr. Doug Bennett – Costs draftsman	Appeal Dismissed -Payment received – matter closed
3	PCA 37of 2008 (CA 75/06, HCA 1341/04) – Barbara Jean Hamel-Smith and Suzette Hamel Smith v The AG	Charles Russell – JGA – Mr. Aiden Casey	Petition Dismissed - Payment received - Matter closed

Written Answer to Question

Tuesday, May 14, 2013

	PRIVY COUNCIL CASE	ATTORNEYS RETAINED	STATUS/OUTCOME
4	PCA 53 of 2008 (CA 71/06, HCA S-2065/04)  Sanatan Dharma Maha Sabha of T&T/Satnarayan Maharaj / Islamic Relief Centre Limited & Inshan Ishmael v The AG—Constitutional	Charles Russell—JGA— Mr. James Dingemans QC Miss Cressida Jauncey	Appeal allowed -Payment received —Matter closed
5	PCA 49 of 2008 (CA 149/05, HCA S-1070/05)  T&T Civil Rights Association and Rajh Basdeo v The AG	Charles Russell—JGA— Mr. Doug Bennett—Costs draftsman	Appeal withdrawn - Billed—Matter closed
6	PCA 16 of 2008 (CA 29/06) —  Chandresh Sharma v Dr. Lenny Saith, Minister of Public Administration and Information	Charles Russell—JGA— Mr. James Guthrie QC	Appeal allowed Billed—Matter closed

	PRIVY COUNCIL CASE	ATTORNEYS RETAINED	STATUS/OUTCOME
7	PCA 3 of 2008 (CA 69/07, CV 2007-02959) - Steve Ferguson and Ishwar Galbaransingh v The AG & Sherman Mc Nicholls	Charles Russell–JGA– Mr. James Lewis– More recently Mr. Alan Newman QC	Appeal withdrawn - Latest Appeal SF and IG ongoing– Are in Court of Appeal stage relating to Attorney General decision to Extradite. More recently issue of s.34 has also arisen
8	PCA 34 of 2008 – Hafeez Karamath v WASA	Mr. Mark Strachan QC Mr. Peter Thornton QC Mr. Christopher Sallon QC	Payment received – matter closed without hearing.

### 2009

- A. For the year 2009, six (6) matters were referred to the Privy Council.
- B. In relation to the 6 matters referred to the Privy Council in 2009, there were no fees charged by or paid to local based lawyers. The total legal fees charged by foreign based lawyers amounted to £112,966.79

The charges for each matter may not in all instances have been invoiced in the same year the matter was referred. Additionally, the payment dates for the fees charged varied according to the payment process managed by the accounts department of the Ministry of the Attorney General. Of the fees charged based on matters arising in 2009 however the records show that the full amount charged has been paid.



*Written Answer to Question*

*Tuesday, May 14, 2013*

C. The names of the respective attorneys/law firms who represented the State of Trinidad and Tobago are as follows:

- Charles Russell – John Almeida\*
- James Guthrie QC
- Peter Knox QC
- Howard Stevens QC

\* John Almeida is an Attorney at Law at Charles Russell, LLP, the firm that has been traditionally retained as Instructing Solicitors on behalf of the State in all matters that are referred to the Privy Council.

D. Of the 6 matters referred to the Privy Council all were resolved. 5 matters resulted in outcomes that were favourable to the State; one appeal was not pursued.

**2009**

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
1	PCA 29 of 2009 (CA 29/08, CV 2006-00811) - The AG v Carmel Smith	Charles Russell–JGA– James Guthrie QC	Appeal heard 13/10/09; Judgment delivered for AG 14/12/09; awaiting instructions on position regarding costs
2	PCA 43/09 (CA 27/08, CV 03132/07)– Sherman Mc Nicolls v The Judicial and Legal Service Commission	Charles Russell–JGA–	Appeal not allowed–Payment received– matter closed

*Written Answer to Question*

*Tuesday, May 14, 2013*

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
3	PCA _ of 2009 (Mag. App 5/09) George Newton, Transport Officer v Snr. Mag Joanne Connor	Charles Russell – JGA –	Appeal not pursued- Payment received – matter closed
4	PCA 57 of 2009 (CA 52/06, HCA S- 2142/04) Josine Johnson and Yuclan Balwant v The AG	Mr. James Guthrie QC (for application for permission to appeal stage) Mr. Peter Knox QC (for hearing)	Appeal not allowed -Payment received, matter closed
5	PCA 112 of 2009 (CA 154/06, HCA 1112/04) Romauld James v The AG	Charles Russell–JGA– Mr. Howard Stevens QC	Appeal dismissed -Payment received–matter closed
6	PCA 0108 of 2009 (CA 33/07, CV 0655/05)– Seeromani Maraj-Naraynsingh v DPP	Charles Russell–JGA– Mr. Howard Stevens QC	Appeal dismissed -Payment received–matter closed

**2010**

- A. For the year 2010, nineteen (19) matters were referred to the Privy Council.
- B. In relation to the 19 matters referred to the Privy Council in 2010 there were no fees charged by or paid to local based lawyers. The total legal fees charged by foreign based lawyers amounted to £507,460.04

The charges for each matter may not in all instances have been invoiced in the same year the matter was referred. Additionally, the payment dates for the fees charged varied according to the payment process managed by the accounts department of the Ministry of the Attorney General. Of the fees charged based on matters arising in 2010 however the records show that £359102.11 has been paid.

- C. The names of the respective attorneys/law firms who represented the State of Trinidad and Tobago are as follows :
- Charles Russell – John Almedia\*
  - Mr. Peter Knox QC
  - Mr. Alan Newman QC
  - Sir Fenton Ramsahoye SC
  - Mr. Howard Stevens QC
  - Mr. Alan Newman QC
  - Mr. James Dingemans QC
  - Mr. Peter Carter QC
  - Mr. Peter Knox QC
  - Mr. David Di Mambro

*Written Answer to Question*

*Tuesday, May 14, 2013*

- Mr. Anand Beharrylal
- Carol Hernandez, Deputy Solicitor General (Local)\*\*
- Mrs. Josefina Baptiste Mohammed-Assistant Solicitor General (Local)
- Nadine Nabie, Senior State Counsel (Local)\*\*
- Mr. Saffraz Alsaran, State Counsel III (Local)\*\*
- Mr. Rene Singh, State Counsel III (Local)
- Ms. Linda Khan, Senior State Counsel (Local)\*\*
- Mr. Christopher Siuchand-Legal Officer I (Local)
- Ms. Rachel Thurab-Senior State Counsel (Local)\*\*

\* John Almeida is an Attorney at Law at Charles Russell, LLP, and the firm that has been traditionally retained as Instructing Solicitors on behalf of the State in all matters that are referred to the Privy Council.

\*\* These local based State Attorneys marked with asterisk represented the State up to and including attendance to appear at hearings before the Privy Council. Those not marked with the asterisk represented the State but did not appear before the Privy Council.

D. Of the 19 matters referred to the Privy Council in 2010, all were resolved. 11 matters resulted in outcomes that were favourable to the State; 8 resulted in outcomes that were not favourable to the State.

**2010**

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
1	PCA 17 of 2010 (CA 125/05) – Ian Seepersad and Roodal Panchoo v The AG	Charles Russell–JGA– Mr. Howard Stevens QC	Appeal allowed -Awaiting instructions relating to payment of Appellant’s Counsels fees.
2	PCA 9 of 2010 (CA 113/08, HCA 227/04) Francis Paponette & Ors v The Ag	Charles Russell–JGA– Mr. Alan Newman QC Mrs. Josefina Baptiste Mohammed- Assistant Solicitor General	Appeal allowed with dissent by Lord Brown -Payment received – matter closed
3	PCA 38 Of 2010 (CA 71/07, HCA 1098/2004) – PS Ministry of Foreign Affairs and Patrick Manning, Prime Minister of the Republic of T&T v Feroza Ramjohn	Charles Russell–JGA– Mr. James Dingemans QC Ms. Linda Khan, Senior State Counsel	Appeal dismissed -Payment received–matter closed

*Written Answer to Question*

*Tuesday, May 14, 2013*

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
4	PCA 43 of 2010 (CA 58/06)– Robert Ramsahai v Teaching Service Commission	Charles Russell–JGA– Mr. Peter Knox QC Carol Hernandez, Dept SG Nadine Nabie, Senior State Counsel	Appeal dismissed -Judgment delivered 9/08/11–To be billed
5	PCA 42 of 2010 (CA 129/08, CV 2494/06) Ranjan Rampersad v Commissioner of Police and Police Service Commission	Charles Russell–JGA– Mr. Peter Knox QC Carol Hernandez, Dept SG Nadine Nabie, Senior State Counsel	Appeal dismissed -Judgment delivered 9/08/11–To be billed
6	PCA 46 of 2010 (CA 211/07, CV 0420/06) Gopichand Ganga & Ors v Commissioner of Police and Police Service Commission	Charles Russell–JGA– Mr. Peter Knox QC Carol Hernandez, Dept SG Nadine Nabie, Senior State Counsel	Appeal dismissed -Order delivered 3/10/11–To be billed
7	PCA 40 of 2010 (CA 56/06, CV 00308/05) Winston Gibson v Public Service Commission	Charles Russell–JGA– Mr. Peter Knox QC Carol Hernandez, Dept SG Nadine Nabie, Senior State Counsel	Appeal allowed -Judgment delivered 09/08/11-To be billed

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	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
8	PCA 45 of 2010 (CA 163/06, CV 0616/05) Ashford Sankar & Ors v Public Service Commission	Charles Russell–JGA– Mr. Peter Knox QC Carol Hernandez, Dept SG Nadine Nabie, Senior State Counsel	Appeal dismissed– Billed 03/13–Fees remain outstanding
9	PCA 19 of 2010 (CA 100/06, CV 26/06) – Public Service Appeal Board v Onar Maraj	Charles Russell–JGA– Mr. Peter Knox QC	Appeal dismissed– Payment received–matter closed
10	PCA 74 of 2010 (CA 162/06, CV 157/06)– Public Service Commission v Hermia Tyson-Cuffie	Charles Russell–JGA– Mr. Peter Knox QC Carol Hernandez, Dept SG Nadine Nabie, Senior State Counsel	Appeal dismissed -Judgment delivered 09/08/11- To be billed
11	PCA 57 of 2010 (CA 22/06, HCA 24/05)– Patrick Manning v Ganga Persad Kisson	Charles Russell–JGA– Mr. Peter Knox QC	Appeal dismissed -Payment received–matter closed

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	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
12	PCA 69 of 2010 (CA 104/09, CV 04897/08)– AG v Universal Projects Ltd	Charles Russell–JGA– Mr. Peter Knox QC	Appeal dismissed -Payment received – matter closed
13	PCA 60 of 2010 (CA 137/06, HCA 1179/04)– Hardeo Sinanan vs Her Worship Senior Magistrate Marcia Ayers-Cesar	Charles Russell–JGA– Mr. Anand Beharrylal Mr. Peter Carter QC	Appeal withdrawn- Billed Sept 2011; remains outstanding
14	PCA 68 of 2010 (CA 23/10, CV 3483/09)– The AG v Keron Matthews	Charles Russell–JGA– Mr. David Di Mambro Mr. Peter Knox QC Mr. Saffraz Alsan, State Counsel III	Appeal allowed- Chased 19/2/2013 for outstanding payment
15	PCA 79 of 2010 (CA 113/09, CV 02435/08) – Antonio Webster v The AG	Charles Russell–JGA– Mr. Peter Knox QC Mr. Christopher Siuechand-Legal Officer	Appeal dismissed–To be Billed–awaiting instructions regarding position on costs owing to JCPC Order



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	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
16	PCA 89 of 2010 (CA 30/06, HCA 6610/98) Emile Elias & Co Ltd v The AG	Charles Russell – JGA – Mr. Howard Stevens QC Sir Fenton Ramsahoye SC Ms. Rachel Thurab-Senior State Counsel	Appeal dismissed -Payment received – matter closed
17	PCA 111 Of 2010 (CA 111/07, HCA S-619/02, HCA 1462/02 (POS) – Chandrawatee Ramsingh v the AG	Charles Russell – JGA – Mr. Anand Beharrylal Mr. Peter Carter QC Mr. Rene Singh	Appeal dismissed – Billed – 9/04/13
18	PCA 108 of 2010 (CA 8/08, CV 2727/04) – Dennis Graham v Police Service Commission & AG – Judicial Review	Charles Russell – JGA – Mr. James Dingemans QC Mr. Howard Stevens QC Ms. Rachel Thurab-Senior State Counsel	Order delivered dismissing Appeal 20/01/2012 – To be Billed
19	PCA 101 of 2010 (CA 139/07, HCA 393/05) – George Anthony Daniel v The AG	Charles Russell – JGA – Mr. Peter Knox QC	Appeal Dismissed - Order delivered 8/09/11 – To be billed

**2011**

- A. For the year 2011, one (1) matter was referred to the Privy Council.
- B. In relation to this matter no legal fees have been paid to date since the State has not yet received a billing.
- C. There were no local Attorneys appearing before the Privy Council representing the State. The names of the foreign based attorneys/law firms who represented the State of Trinidad and Tobago are as follows:
- Charles Russell – John Almeida\*
  - Mr Peter Knox QC

\* John Almeida is an Attorney at Law at Charles Russell, LLP, and the firm that has been traditionally retained as Instructing Solicitors on behalf of the State in all matters that are referred to the Privy Council. This appeal was resolved. It was allowed resulting in an unfavourable outcome for the State.

- D. This matter has been resolved. The outcome was not favourable to the State.

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
1	PCA 25 of 2011 (CA 112/09, CV 265/08) – Harinath Ramoutar v Commissioner of Prisons & Public Service Commission	Charles Russell – JGA – Mr. Peter Knox QC	Appeal allowed -Awaiting billing

**2012**

- A. For the year 2012, seven (7) matters were referred to the Privy Council.
- B. In relation to the 7 matters referred to the Privy Council in 2012, no legal fees have been charged by or paid to local and foreign based lawyers.
- C. The names of the respective attorneys/law firms who represented the State of Trinidad and Tobago are as follows:
- Charles Russell – John Almedia\*
  - Mr. Alan Newman QC
  - Mr. Peter Knox QC
  - Mr. Tom Richards
  - Mr. Anand Beharrylal
  - Mr. Tom Roe
  - Ms. Josefina Baptiste Mohammed –Assistant Solicitor General
  - Ms. Monica Smith –Senior State Counsel
  - Ms. Rachel Thurab-Senior State Counsel
  - Mr. Rene Singh –State Counsel III
  - Tamara Maharajh, State Counsel I
  - Ms. Cherisse Nixon-State Counsel I

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*Tuesday, May 14, 2013*

\* John Almeida is an Attorney at Law at Charles Russell, LLP, the firm that has been traditionally retained as Instructing Solicitors on behalf of the State in all matters that are referred to the Privy Council.

D. Of the 7 matters referred to the Privy Council in 2012, none of the matters have been resolved.

	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
1	PCA 39 of 2012 (CA 140/07, CV 2468/06) Trevor Williamson v AG	Charles Russell – JGA – Mr. Tom Richards	Pending –
2	PCA 52 of 2012 (CA 168/05, HCA 3133/03) – Oswald Alleyne & 152 Ors v The AG	Charles Russell – JGA – Mr. Alan Newman QC Mr. Anand Beharrylal Ms. Monica Smith –Senior State Counsel Mr. Rene Singh –State Counsel III	Pending –

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	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
3	<p>PCA 49 of 2012 (CA 95/12, CV 1234/11) -</p> <p>Percy Farrell, Marina Inalsingh, Gordon Rohlehr, David Dayal &amp; Michael Alexander</p> <p>v CLICO (T'dad) LTD, Central Bank of T&amp;T,</p> <p>Republic Bank Ltd, Winston Dookeran,</p> <p>Minister of Finance &amp; AG</p>	<p>Charles Russell – JGA –</p> <p>Mr. Alan Newman QC</p>	<p>Application granted – To be billed</p>
4	<p>PCA 75 of 2012 (CA 197/08, HCA 26/07)</p> <p>Fazal Ghany # 12858 v AG &amp; Compensation Committee</p>	<p>Charles Russell – JGA –</p> <p>Mr. Tom Richards</p> <p>Mr. Rene Singh, State Counsel II</p>	<p>Pending–</p>

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	<b>PRIVY COUNCIL CASE</b>	<b>ATTORNEYS RETAINED</b>	<b>STATUS/OUTCOME</b>
5	PCA 95 of 2012 (CA 280/08, CV 1256/07) Balram Singh v Public Service Commission	Charles Russell – JGA – Mr. Peter Knox Q Tamara Maharajh, State Counsel I	Pending –
6	PCA 03 of 2012 (CA 61/07, HCA 1332/01) Terrance Calix v AG	Charles Russell – JGA – Mr. Tom Roe Ms. Josefina Baptiste Mohammed – Assistant Solicitor General	Appeal heard 14/03/2013 Awaiting Judgment
7	PCA 84 of 2012 (CA 87/12, CV 2632/11, CV 2987/11) – AG v Anthony Mauge & Lawrence Blake	Charles Russell – JGA – Mr. Tom Roe Ms. Rachel Thurab-Senior State Counsel Ms. Cherisse Nixon-State Counsel I	Ongoing. Filed Appeal Notice. Awaiting decision on Application

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MINISTRY OF THE ATTORNEY GENERAL

6 MAY, 2013