

*Leave of Absence*

*Tuesday, February 11, 2014*

**SENATE**

*Tuesday, February 11, 2014*

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. Elton Prescott, SC who is out of the country.

**SENATOR'S APPOINTMENT**

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.  
 President.

TO: DR. AYSHA B. EDWARDS

WHEREAS Senator Elton A. Prescott is incapable of performing his duties as a Senator by reason of his 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)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, AYSHA B. EDWARDS, to be temporarily a member of the Senate, with effect from 11th February, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator Elton A. Prescott.

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 10<sup>th</sup> day of February, 2014.”

*Oath of Allegiance*

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**OATH OF ALLEGIANCE**

*Senator Dr. Aysha B. Edwards took and subscribed the Oath of Allegiance as required by law.*

**PAPERS LAID**

1. Response by the Commissioner of Police to the Fourteenth Report of the Joint Select Committee of Parliament on Ministries (Group 2), and on Statutory Authorities and State Enterprises, on the Administration and Operations of the Trinidad and Tobago Police Service (with specific focus on efforts at maintaining law and order). [*The Minister of National Security (Sen. The Hon. Gary Griffith)*]
2. Ministerial Response to the Thirteenth Report of the Joint Select Committee of Parliament on Ministries (Group 2), and on Statutory Authorities and State Enterprises, on the Commissioning Process for the New Scarborough General Hospital. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]

**STATEMENT BY MINISTER**

**Oil Spill National Environmental Assessment Task Force**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you very much, Mr. President.

Mr. President, the People's Partnership Government was recently faced with a very serious environmental issue which required immediate and urgent attention.

As most would be aware, on December 18, 2013, the Ministry of the Environment and Water Resources, through the Environmental Management Authority (EMA) was alerted to an oil spill off the coast of Coffee Beach in La Brea. Since that time, several subsequent spills were reported during the period December 17—26, 2013 including spills at Platform 17 in the Petrotrin Marine Operations East Field, Rancho Quemado, Erin; the Brighton Marine Field; Moruga Hudlin Trace leading to the Marac River; and the Pointe-a-Pierre Port and Marine Facilities, with similar adverse effects to human health and the environment.

The emergency response team of the EMA was instrumental in providing guidance in initiating the clean-up efforts; and the EMA was in continuous contact with the Regional Corporation in the area, the Office of Disaster Preparedness and Management (ODPM), the Ministry of Energy and Energy Affairs and the Institute of Marine Affairs (IMA) in assessing and addressing the situation. Affected

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residents were provided with medical attention, temporary employment and counselling, whilst alternative accommodation was offered at the La Brea Community Centre. Food hampers and toiletries were also distributed to affected residents.

After consultation with its line Ministry, the EMA invoked section 25 of the Environmental Management Act, Chap. 35:05 and implemented such emergency response activities as required to protect human health and the environment. These included:

- the remediation or restoration of environmentally degraded sites;
- the containment of wastes, hazardous wastes or environmentally dangerous conditions; and
- such appropriate measures as may be necessary to prevent or mitigate adverse effects on human health or the environment.

It has been reported that over 2,000 barrels of oil were recovered as a result of clean-up efforts.

In addition to this, the legislative process was initiated by the EMA in that two Notices of Violation (NOVs) have been served on Petrotrin as a result of the breach of the Act. The breaches include:

1. The failure of Petrotrin to submit for approval the required methods for the disposal and treatment of waste generated from the aforementioned oil spills.
2. The failure of Petrotrin to report all accidents, emergencies and spills within the stipulated time frame.
3. The failure of Petrotrin to comply with health and air-monitoring requirements.
4. The failure of Petrotrin to submit a complete written report of the incident.

Further to this the EMA entered into a Consent Agreement with Petrotrin on January 07, 2014, in keeping with the provisions of section 25 of the said Act in which Petrotrin was fined a sum of TT \$20 million. The moneys would be used towards the assessment, remediation and rehabilitation of the impacted sites.

Mr. President this Government is very cognizant of the fact that spilled oil poses serious threats to the aquatic environment. It affects surface resources and a wide range of subsurface organisms that are linked in a complex food chain that

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includes human food resources. The harm to the environment can occur in several ways, including the physical damage that directly impacts wildlife and their habitats, such as coating of birds or mammals with a layer of oil, and the toxicity of the oil itself, which can poison exposed organisms.

Spilled oil and certain clean-up operations can cause harm to different types of marine habitats in different ways. For example tidal flats, which are broad, low-tide zones, usually containing rich plant, animal, and bird communities and can be adversely affected by the deposited oil which may seep into the muddy bottoms of these flats, creating potentially harmful effects on the ecology of the area. Also mangrove forests, which are home to a diversity of plant and animal life, have long roots, called prop roots, that stick out well above the water level. These roots help to hold the mangrove tree in place and grow very slowly. A coating of oil on these prop roots therefore will take a very long time to recover, adversely affecting numerous species. There is also, of course, the effect of the spilled oil on human health from exposure to hydrocarbons.

It is against this backdrop that the EMA will continue to assess the extent and gravity of the environmental impact of the oil spill which will inform the methods employed toward the remediation and restoration of impacted sites, and appropriate measures as may be necessary to prevent or mitigate adverse effect on human health and the environment.

Mr. President, the Ministry of the Environment and Water Resources will treat, with priority, the human and environmental impacts of the oil spill and undertake comprehensive investigation into the matter to ensure that any threat to the ecology within the affected area is contained and that clean-up activities are efficiently managed.

In this regard, and in furtherance of section 25 of the Environmental Authority Act, a National Environmental Assessment Task Force has been established to oversee all activities that are necessary to address the environmental impacts of the oil spills at Petrotrin which affected the coastline of the south-west peninsula of Trinidad and provide guidance to the EMA as lead agency.

The National Environmental Assessment Task Force (NEATF) will conduct an environmental assessment to determine the impact and current state of the environment due to the oil spill with emphasis on potential impacts in the waters of the Gulf of Paria. The Committee shall co-ordinate environmental monitoring work; ensuring that a comprehensive set of environmental data is obtained; assessing the overall environmental impact of the incident, and report on the principal findings, with recommendations as appropriate.

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The Committee shall establish and initiate a monitoring programme and identify studies that are required to rehabilitate the affected areas after the spill. These studies will eventually form a national work plan. The committee will report to the Minister of the Environment and Water Resources on a quarterly basis with their first report due in approximately three months. They will also assess the types of baselines needed in the near-term monitoring of the impacts of the oil spill and for developing plans for recovery and restoration following an oil spill in Trinidad and Tobago waters where a spill could potentially impact our natural resources.

The terms of reference for the National Environmental Assessment Task Force are as follows:

- i. To confirm all sources of the oil spills into the Gulf of Paria.
- ii. To co-ordinate monitoring work carried out by government departments and other public bodies to assess the environmental impact of the Petrotrin oil spill and the subsequent clean-up activities.
- iii. To establish Shoreline Cleanup and Assessment Teams (SCAT) to undertake reconnaissance surveys of damaged resources and select study sites for damage assessment.
- iv. To identify sampling and monitoring priorities for evaluating impacts of the oil spill.
- v. To identify final prioritization and decide which detailed studies to undertake to document the assessment process and the reasons for decisions on priorities and strategies.
- vi. To document the fate and behaviour of the oil, and the effectiveness of the clean-up
- vii. To initiate and coordinate studies to ensure that a comprehensive set of monitoring data on environmental distributions and impacts is obtained.
- viii. To determine, through these studies and assessment programmes, the overall impact of the incident on environmental resources of the area affected. These resources to include, but not limited to, fisheries, invertebrate resources, benthic ecology and wetlands, and to assess the subsequent recovery of these resources. The assessment will also include discussion of the fate and effects of unrecovered oil left to biodegrade and weather in the natural environment. Information on the distribution of pollutants relevant to human health would be passed to public health authorities for assessment

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- ix. To assess the capabilities and constraints for minimizing environmental resource impacts and enhancing recovery and identify appropriate mitigation measures.
- x. To develop a long-term remediation and rehabilitative action plan to address the environmental impacts and shall make recommendations on future monitoring and studies of the effects of the oil spill on the environment.
- xi. To make recommendations on all technical matters relating to the planning, development and implementation of the Remediation and Rehabilitation Action Plan.
- xii. To oversee the monitoring and evaluation of the Remediation and Rehabilitation Action Plan to determine its effectiveness.
- xiii. To develop a National Environmental Impact Mitigation and Assessment Response Framework.
- xiv. To review and approve all reports and outputs resulting from this exercise.
- xv. To provide co-ordination between different government agencies, industry sectors and other groups with interest in the issue: environment, energy, transport, fisheries, et cetera.
- xvi. To provide a forum for inter-ministerial and cross-sectorial communication and consultation on the issue.
- xvii. To identify and co-opt additional resources, including appropriate sectorial representation, as required to assist with the functions of the task force.

Mr. President, the members of the task force were presented with their letters of appointment on February 07, 2014 and have already begun their work. The members of the task force include:

- Dr. Allan Bachan—Chairman, Environmental Management Authority;
- Professor Indar Ramnarine—Chairman, Institute of Marine Affairs;
- Ms. Christine Chan A Singh—Director, Fisheries Division, Ministry of Food Production;
- Dr. Rahanna Juman—Institute of Marine Affairs, with expertise in wetlands ecology;
- Dr. Darryl Banjoo—Institute of Marine Affairs, with expertise in Marine Chemistry;

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- Professor John Agard—University of the West Indies, with expertise in pollution and environmental control;
- Mr. Neal Alleyne—Head, Petroleum Engineering, University of Trinidad and Tobago;
- Mr. Jalaludin Khan—Chairman, National Trust of Trinidad and Tobago
- Dr. Akenath Misir—Principal Medical Officer, Environmental Health, Ministry of Health;
- Mr. Nigel Darwent—Deputy Chairman, Trinidad and Tobago National Petroleum Marketing Company;

Further, Mr. President, three other members of the National Environmental Assessment Task Force are to be selected in the coming weeks. These include:

- A local representative with expertise in offshore transport and the fate of oil/oil spill dispersion modeling;
- An international representative with expertise in restoration and rehabilitation activities related to oil spills, from the United States Fish and Wildlife Agency;
- An international representative with expertise in oilfield safety and management to assist with the development of guidelines for risk mitigation, which will enhance the environmental regulatory permitting processes, from the United States Environmental Protection Agency;

Mr. President, I am confident that the best interest of the environment with regard to the clean-up of the oil spill and monitoring of effects is well placed within this highly knowledgeable and experienced team.

I trust that I have demonstrated to this honourable Senate that the clean-up of the oil spill and safeguarding of the environment and human health is high on the agenda of this Government and I assure that the Ministry of the Environment and Water Resources is committed to working with all stakeholders and interested parties to ensure that the measures implemented are in the best interest of the environment and the people of this beautiful twin island state.

Mr. President, I thank you.

**MISCELLANEOUS PROVISIONS  
(LICENSING COMMITTEE) 2014**

*Order for second reading read.*

**The Minister of Legal Affairs (Hon. Prakash Ramadhar):** Mr. President, let me just say I thank you for the opportunity to be here in this most august House of the Upper House of the Parliament of Trinidad and Tobago.

Mr. President, I beg to move:

That a Bill to amend the Liquor Licences Act, Chap. 84:10, the Cinematograph Act, Chap. 20:10, the Registration of Clubs Act, Chap. 21:01, the Theatres and Dance Halls Act, Chap. 21:03, the Moneylenders Act, Chap. 84:04, the Pawnbrokers Act, Chap 84:05, the Licensing of Dealers (Precious Metals) Act, Chap. 84:06 and the Old Metal and Marine Stores Act, Chap. 84:07, be now read a second time.

Mr. President, it is a truism that justice delayed is justice denied. In our court system in Trinidad and Tobago the limited capacity that exists in relation to the number of matters that attend before, not just the Magistrates' Court, but the High Court and the Court of Appeal, there is a move by this Government to ensure that we streamline and make more efficient the processes to expedite matters before the courts. The court that carries the highest number of matters—the greatest burden to deal with the backlog—certainly, is the Magistrates' Court.

In the Magistrates' Court many do not truly appreciate that that Court sits, not only to deal with summary offences, indictable offences, it deals with petty civil court matters and all of these number in the thousands and thousands throughout Trinidad and Tobago. What many of our citizens do not truly appreciate is that the length of time that the Court takes in dealing with liquor licence applications is a burden that it should never have to carry any further.

What really should be an administrative act has become now, almost a judicial exercise, unnecessarily so. The time when that original legislation had come was a different era and there were different concerns and considerations. But, looking now to see how we could make far more efficient our judiciary—apart from the many other options which have already been engaged in this House and in the Lower House that have been put into legislation—we thought it fit and proper now that all of these matters—all these acts—that are now before us, require the attention of a Magistrate sitting with a committee to approve licences; to renew licences and do all things which, indeed, has no place before a court.



For many who have practised or those who had to visit the Magistrates' Court several times—sometimes when there is what you call a licensing session that is proclaimed and announced; and during that period, maybe a single day or two days per week, for a month or sometimes two months, are put aside just for the hearing of liquor licence applications.

When one visits one would appreciate the hundreds of applicants who attend and who must attend before the court. Sometimes, if not the first day into the second day, to hear “No objections, licence granted”; sometimes to hear “Objection” and therefore it would be put down for a trial. Sometimes to hear that a report has not yet come; because, to grant the licence there are several things—just to give an example: you need approval from the fire; approval from health, local government; police and sometimes these reports are not before the court, but the time it takes to list these matters just to adjourn them, in itself, really is a tragedy. We thought it fit and proper that we should take the court to where it should be; to deal with real matters that affect the rights and liberty of our citizens. [*Desk thumping*]

To that end, the legislative change that we propose here, in what I hope to be a very short debate—certainly, my presentation will not be extensive because we have made it as concise as is possible and clear as I possibly could make it. We intend, by the amendments, first of all, to take the issue or renewal of liquor licences and the licences for all the other matters of pawnbrokers, registration of clubs, theatres and the eight bits of legislation out of the need to have a Magistrate to determine them and put it where it truly belongs, with the Clerk of the Peace and in this particular case, we have now proposed the change of the committee, in our section 5, and with your permission I shall read it. The amendment, that we seek, is at clause 2 which amends section 5(1): of the Liquor Licenses Act

“There shall be a licensing committee for each magisterial district which shall consist of the following members:

- (a) the Clerk of the Peace or, where more than one Clerk of the Peace is assigned a Magisterial District, a Clerk of Peace designated by the Chief Magistrate.
- (b) one person, or his alternate, nominated by—”

in relation to Tobago

“(i) the Tobago House of Assembly...

(ii) the municipal corporation of the municipality in which the magistrate's Court is located;”

(c) one person or his alternate, nominated by the local business associations within the magisterial district.”

Now, the system that we propose is this: When application is made and all of the statutory reports are in—all the required reports are in—and where there is no objection, it is a matter—I would use the term “automatic” that the licence be granted. If there is an objection from any citizen as to that licence being granted or renewed, or whatever, that person is required to place their objection in writing to the committee. If I may be permitted—I do not know if it has been circulated as yet—at section 7, where we are proposing an amendment—in section 20, sorry—by inserting after subsection 4, the following:

Subsection 4(a) that reads:

In the absence of any objection a licensing committee may issue or renew a licence without requiring the applicant to attend before the committee.

At clause 21(1)(i)

by deleting all the words from the words “shall have the right of appearing before the licensing committee

And substituting—this is in the new amendment

May object in writing to the grant or renewal of a licence or the transfer of any licence to any new premises or person stating the grounds of the objection and every such objector shall be heard by the licensing committee.

At that stage, where there is an objection, the committee sits with the objector and the applicant and for the first time in this environment we seek to introduce a level of mediation—[*Desk thumping*]*—*which is really the thrust for resolving conflicts that we must all applaud and look forward to; because, in mediation, as we have the committee represented by the Clerk of the Peace, a member of the municipal corporation and a member from the NGO—that is the business community—we would have a balance where sometimes conflicts that should never be amplified, could be mitigated there, and sometimes find a resolution.

We have seen from the experience of the mediation board and many other options that have been used for mediation to have shown tremendous success in resolving matters. If, however, after that effort is given the best opportunity and it fails, then that matter goes before the Magistrate.

Now, let me explain, for many of us who do not quite appreciate. In the present law, when there is an objection, what happens is that there is set down for trial—a date is fixed and it is a full blown trial where the objector will state his case and possibly bring witnesses—sometimes as many as they wish; there is cross-examination, after which the applicant gives his evidence and sometimes he, too, shall bring witnesses. At the end of which the Court would then have to determine whether to grant the licence or renewal, or to reject it; as a full trial. We think that is a terrible waste of judicial time, unless, of course, you have exhausted other options, which is the mediation process; but that is still available in a case where it cannot be resolved. Because, we thought it fit and necessary that where there is a conflict, the court should, at the end of the day, be able to make a decision one way or the other. We preserve the right at the end of that decision, for the applicant or the objector to access the Court of Appeal for final determination in these matters. So, Mr. President, that really, is the essence of the objection, but it does not end there.

In terms of the need to unburden the court to let it do far more—I should not say more serious work—but I should, really, because when you consider what the court could be doing otherwise, I think it is time better spent dealing with the matters of a criminal nature.

Another point that may be overlooked is this: Every time the licensing session is placed, you have hundreds of applicants who have to crowd the courts. For those who practise, who have seen it, you would have persons jostling amongst persons charged for manslaughter, rape and all sorts of terrible offences—sometimes persons who have many cases—and it has always been a level of discomfort that I, personally as a lawyer, have been exposed—to members who have no business in a court; who have never attended a court for any reason other than for an application for a liquor licence, or for pawn brokering licence or for precious metals licence and I think we need to take them out of that environment as best as we can.

Another point—and this might seem insignificant but I know my friend, Sen. Al-Rawi will agree, having practised in many courts—is that on those days that you have liquor licences, the place is so crowded that the very application that you make that says that fire has to approve your premises, if they were to come to court that day, they will close the court because of the congestion; the lack of capacity to hold our people. We have to go there crowded, herded like sheep; await your name call; at the end of the day, sometimes to return tomorrow, return next week for no real, good and proper purpose. So, that is something that we

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needed to attend to and this effort will also deal with that. As I repeat, the new section 4(a) does not require the attendance of the applicant; you make your application, if all is fit and proper your licence is granted and you just pay and proceed. There is no need for you to be there.

Another thing that we looked at, Mr. President, is this: Under the present law, section 21(C)—if I may be permitted to read it:

“A Magistrate may, on complaint made in writing by an aggrieved person, suspend or revoke a licence if satisfied that the conduct of any trade or business on licensed premises to which this Act applies has caused annoyance to persons in the vicinity of that trade or business by virtue of any excessive noise...”

We thought that was too limited and, speaking as a Member of Parliament representing persons, many of the complaints we get are really not just limited to the issue of noise, because the EMA has jurisdiction to deal with that aspect, but there are many other nuisances or annoyances. For instance, persons parking in front of your gate; you have no access to your own property—you have an emergency, you cannot leave. We hear this all along and businesses continue to operate without any care or concern for those matters and say “that is a police matter alone.” I say, “No, we must take responsibility.” We live in a very small society of give and take, but many take too much and give very little in return. So, we thought it necessary to expand the authority of the Court on these matters, and with the new amendment, with your permission, of course, should read:

Apart from excessive noise “or other nuisance or noise...”

So, the court would be fully justified in looking at the totality of any complaint and determine whether in the circumstances that nuisance is something that should cause a licence to be revoked or suspended. Now, the effect of that may seem a little bit harsh, but it is only harsh if we do not do things necessary to mitigate and to make life easier for our citizens. We cannot close our eyes or our ears to the complaints of our citizens. So, we thought it fit and proper to include that in this effort to amend.

Mr. President, we also looked at the issue of the penalties, many of which were never looked at for, sometimes, decades. The last, I think, was a decade ago. We have raised the penalty commensurate with the environment, with inflation, with the fact that a penalty could only be a penalty if it is reflective of the time. For instance, you had a penalty of \$20 which, really, is a niggling figure, but if you raise it to something substantial then whether it is prosecuted or not, at least it

is there so that if it is prosecuted you would know that if you are found guilty for it, or there is a breach, there is something meaningful. So, I shall not trouble you with all of the amendments in relation to the penalties; they are before you.

So, Mr. President, in a nutshell, these are the very simple amendments; simple, yes, but, I think, very timely and very, very important for the better order of our society. I know the Court of Appeal had just last week, need to look at the issue of what we shall call “special licences” or “occasional licences” and the issue of that can be found at section 47, I think it is, where it is up to the police to object. We were considering whether we should interfere with that and when we made enquiries and analyzed it, I think it is fit and proper for the police to object because those special licences, or occasional bar licences, are really given in a far shorter time frame. For instance, you have a bazaar and somebody says, “Look, we need a bar there” and you go to the court and you get a licence. When that licence application is made, it is communicated directly to the senior officer in the district and they will do their investigation and determine what security arrangements need to be made for parking and for noise; and there are conditions to the licence which the Clerk of the Peace, under the present law, is entitled to give, singularly. There is no need for a committee for that, but the police officer—being well experienced in these matters—that objection could be taken to the court for determination if there is any objection to it.

So, Mr. President, having said what I had to say, I just commend these amendments to the collective wisdom of this Upper House. No effort is perfect and I look forward to the contributions of my friends to see if we could do better as we proceed; I will welcome that.

Mr. President, with those words, I beg to move.

*Question proposed.*

**Sen. Dr. Lester Henry:** Thank you, Mr. President, for allowing me to start off our response to this Bill here today. Let me start by saying that some of the legislation you just read off there and gave you some trouble, also gave me some trouble and also brought back some memories of my grandmother when we talked about the Marine Stores Act. [*Laughter*] I think Sen. Hadeed might be familiar with that. [*Laughter*]

Mr. President, I think—on a serious note—the Bill appears to be of fairly good intent in terms of some of the issues the Minister outlined in terms of smoothing out the process for granting and renewal of licences and so on. Being a member of a members’ club myself, I know some of the trials and

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tribulations involved, especially in small clubs, not of the large clubs like Queen's Park and so on; the smaller ones that have hardly any paid staff and so on. They go through some significant—*[Interruption]* Not a large club? Well, all right.

So, some of the small clubs that have to invest a lot of time and so on in terms of getting their licences renewed. So, the movement towards committees in itself, is not exactly a major issue. I think even some of the people who I know are involved in bars and even setting up temporary bars for carnival, Labour Day and so on, along the roadsides, they also expressed the idea that this should be supported in terms of easing the burden of getting their licences approved.

However, we do have some issues that we would like to raise; at least I will raise some and my colleagues, I am sure, will jump in with elaboration on some of my points or even their own points as we go along.

Now, some of the things that I think we should consider in terms of this piece of legislation here—we are happy to see that the legislation involves bringing in the idea that the committee members must declare their conflict of interest. That is a significant development and it is a step in the right direction, but we just want to warn that in the case of these conflicts of interest, these things are, generally, very difficult to monitor in our society where people just stay quiet very often and they dare you to prove that the bar that they are granting the licence to is their own.

In other words, even though we applaud the step in that direction we have at least, some warnings in terms of the application of it. How are you going to make sure that these people who sit on these committees—because on the committee that you propose there is supposed to be someone from the business community in the area. If that person owns a bar how could you prove that he is not granting himself a licence? What mechanism is in place to monitor that type of situation?

Another issue that I would like to raise is in terms of the monitoring and the application of the law from these various committees, because each district is going to have a different committee. From what I understand right now, some of the magistrates make demands on some of the applicants that are not necessarily consistent across the different jurisdictions.

One of my friends told me—well, he was trying to open a bar, again, for Labour Day in Fyzabad, for example, and the person in charge of granting these licences down there told him that he could not have any glass bottles in his bar which, of course, creates a very difficult situation. *[Interruption]* When you say Fyzabad you must be very careful. You must be very careful, hon. Minister,

talking about Fyzabad because there are certain members, present here today, who signed the Fyzabad accord and may be having some serious regrets right now. [*Desk thumping*] [*Laughter*] Hon. Minister of Legal Affairs, you do not have to comment on that. [*Laughter*]

So, as I was saying, one of my friends who raised this issue said sometimes you have this very strange application of the law and it could actually turn out that the order by the Justice of the Peace, or the Magistrate, sometimes could be actually illegal in the sense of what they are demanding is not possible to actually put into place. He raised one issue, for example: How could you sell Johnny Walker Black in a plastic bottle? [*Interruption*] Right, you cannot. You would have to get a licence and permission from Johnny Walker to pour it into a plastic bottle. [*Interruption*] No, listen to your Minister of Legal Affairs, he appreciates the point. [*Interruption*] No, these are people who run bars on a continuous basis and this is what we are here to talk about, making life easier for these people. [*Interruption*] Listen, listen, I know the Fyzabad thing get you a little uneasy.

So, when people make these strange demands and so on, I mean, of course, it creates a difficulty in the system. So, the point I am raising is that: Is there any mechanism we could put in place to ensure consistency of applications across the different jurisdictions with these committees? Because we already see that is an existing problem with the magistrate. I mean, of course, we cannot legislate everything, we know that. We know there are limitations to what you could prescribe in the legislation as those of us who love cricket always say, you cannot set a field for bad bowling. [*Laughter*] Therefore, despite the best—[*Laughter*] Yes, all “yuh” gave us a lot of “lipe”. [*Laughter*] I am sure Members opposite understand what “lipe” is. So, that was one issue.

Now, Mr. President, I move on to another issue that is a source of concern—which the Minister did mention—and that is the idea of complaints regarding excessive noise. I see in this amendment here it talks about the person writing a letter to the committee which could then be appealed to the magistrate. Are we saying that the committee just simply based on that letter, can actually close down the club or the source of the noise, basically? Well, I will not go into details about that, but what I want to flag is that I agree with the Minister in terms of this being a serious matter because I am aware of a particular bar that I know of where this noise level is continuous and the people in the area have written petitions and done all kinds of things and it just continues. Many of us who understand the value of a good night’s rest and a quiet neighbourhood—that is why people spend millions of dollars to live in certain places, to avoid that kind of disturbance because it really does not do any good to the average person to have their night’s rest disrupted at all hours of the morning and so on.

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So, what we see here is that it could be another good step in terms of making it easier to close down or get rid of these nuisances and so on. The Minister mentioned the EMA and I would have liked to see a little bit more articulations in terms of the boundaries between what this is trying to achieve and the EMA, because when does someone go to the EMA and when does someone go to the committee, if it is strictly a noise problem? Is there any potential conflict between the EMA legislation and this particular legislation?

You mentioned the issue of the police officer having to bring the issue up in terms of the occasional licences: the people who do fetes in areas that are not normally licensed to hold fetes, that is a concern.

Now, the next clause that I have some concern about—I think the Minister did not mention it at all in his brief presentation—is the discrimination clause. *[Interruption]* Yes, but there is a change in your amendment where you are making it easier to get action on a discrimination complaint. What we are seeing here in the amendment is that upon writing, just as we did with the noise complaint, that the committee would have the ability to close down a club or public space, someone who operates under one of these licences that a serious complaint of discrimination is raised again.

Now, I remember the original national uproar back in the 90s over the Base and Coconuts incident and it was the same UNC government that brought the legislation at that time to outlaw discrimination on the basis of race, colour and so on, which, again, was unfortunate that we had to do that, but it was needed. I am quite ashamed and fairly angry that we would still need to have these kinds of things going on in this country at this point. We are better than that and we are way past that but I think there are some potential issues there. I support any move to make it easier to pull them up if they are discriminating against citizens of any description. I think I could applaud that effort, but again—yes, there is a discrimination clause; but again, we have to think about the practicality of implementing that clause. How is it going to actually take place? Who is going to bring the complaint that this committee is going to believe and then say, “Okay, we have enough, let us go and close down this club”. *[Interruption]* Only a magistrate can do it.

It also made me think about whether we have prosecuted anybody under these laws, ever. I do not know of any case where this was actually done. I mean, maybe that is a good thing that it did not happen, but we know that unfortunately, it still happens in our country today. That is very unfortunate and I think those people who are involved in such practices should feel the full brunt of the law. It is an area that I feel very strongly about. Many of you may know that I lived in the US for many years and it is something—*[Interruption]*



**Hon. Senator:** Terrorist?

**Sen. Dr. L. Henry:** No, I had to come here and terrorize you.

**Sen. Al-Rawi:** You now reach and you giving him pressure?

**Sen. Dr. L. Henry:** Yes.

So, let me move on, Mr. President, in terms of the fines that the Minister mentioned, he did not bore us with all the details, but in some cases he said, “You know, we made it a little more substantial. We raised it so that it will really have some impact, to bring it in line with current values and so on”. I still feel that in some cases it is still too low in terms of what prices are, what incomes are and the kind of revenue certain clubs generate in today’s economy. I mean, clubs, bars and so on have huge turnovers. I am sure certain members here could testify to that better than others. *[Laughter]* Seriously, I think some of the fines where they are raised from, like \$400 to \$1,000, for example, I think for illegal gambling on a premise that has a liquor licence, that was only raised from \$400 to \$1,000. I think—

**Sen. Ramlogan SC:** Which one is that?

**Sen. Dr. L. Henry:** Section 58. The fine for illegal gambling, \$400 to \$1,000. That one in particular stood out to me as one that should be significantly higher because I believe that these clubs could also be the ones that pass as casinos. I do not know how we are going to deal with that in terms of—it raises a whole debate, again, about whether gambling is illegal and the loophole that the clubs use. If you have a fine for illegal gambling on a premise that has a liquor licence, first to begin, are these clubs paying this fine today? And, of course, if they are paying the fine, then I am sure they will be quite happy to pay \$1,000 whenever the cops raid the joints. So, \$1,000 to them is like nothing, I mean, they sell a few beers and they make that back immediately. Okay? Therefore, I would particularly flag that one to say that in some instances—now, we know that many on the other side have run into large bank accounts in recent times, but recently they have tended to fall in love with small change.

**Hon. Senator:** Who is that?

**Sen. Dr. L. Henry:** Many on the other side. *[Desk thumping]* *[Laughter]* So, all of a sudden, I think these fines reflect their love with small change. So, I would hope that—*[Interruption]* Yes. Hon. Minister of Finance, a penny for your thoughts? *[Laughter]*

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So, Mr. President, I find that whereas I could support the idea of increasing the fines, in some cases I think they are woefully still too low to act as any serious deterrent to breaking the law, as the Minister himself is aiming to do. I think he clearly stated that as his objective. I think in some cases we need to revisit the amounts and make sure—especially from the social aspect of trying to discourage, especially gambling. [*Desk thumping*] We know the ill-effects of gambling and so on. So, we definitely would like to see some action in terms of really resolving this issue and sending a strong statement that we do not support gambling and if you chose to gamble illegally, you are going to pay a high price for it. It must be a credible deterrent and so on.

Mr. President, I think that overall, as the Minister said, we have to streamline and make the process a lot more friendly and I think most of what he said regarding that we could support, but we do have some issues and some of my other colleagues would raise those issues.

I thank you very much.

**Sen. Anthony Vieira:** Thank you, Mr. President. [*Desk thumping*]

In my early days of practice I had, on a number of occasions, represented fete promoters—[*Interruption*—and pub operators both in Trinidad and Tobago. Usually, they wanted help because there was a lot of strenuous and passionate objection on the part of residents to their having their fetes or running their enterprises and usually the complaints had to do with noise and about traffic problems. Invariably, I was always able to have my clients’ applications prevail in the face of those vociferous objections because the law either said that the objectors did not have the status to object, that was limited to the owners or occupiers of adjoining property; to a minister in charge of a place of public worship; to the police or to the manager of a school within 400 meters. Now, under this legislation, objectors have a right to be heard, and that is a positive thing.

Again, the objections, even though they were very important to the affected residents, they did not qualify as permissible under the law. So, I think the changes under section 21C are very important because they not only give the objectors the right to be heard, but it says that,

“A Magistrate may, on complaint made in writing by an aggrieved person, . . .”

And he will now take into account, causing of annoyance to persons in that trade or business among other things by virtue of excessive noise.

**2.30 p.m.**

So I think this will be a great comfort to many residents in many of our neighbourhoods and on that basis alone, this is worthy of support. [*Desk thumping*]

There are a number of other measures that have been introduced in this legislation that I also think worthy of support, and I agree with the hon. Minister of Legal Affairs. First and foremost is the fact that this is going to free the magistrates to concentrate on matters requiring judicial expertise, and I like the provision where the Clerk of the Peace can assign a public officer to perform the duties of the secretary of the licensing committee. I think what is also good is that this legislation harmonizes “dis-partite” relevant legislation regarding the composition of the licensing committees by providing for a common definition. I like, too, the fact that this legislation will expedite the application process by making the grants automatic unless, of course, there is an objection, and then you will deal with the objection as it arises. The use of dispute resolution is also innovative and to be complimented.

Let me read that provision because I think it—the whole idea here is that you are bringing this back to communities, and it is not about who has the better lawyer and taking technical points of law, so:

“Where an objection to the grant...of a licence is made...the licensing”—authority—“shall meet with the applicant and the objector to assist them in reaching a mutually acceptable resolution.”

And:

“Where the parties fail to agree to a resolution, the matter shall be heard by a Magistrate assigned for duty in the magisterial district and the Magistrate may make an order approving or refusing the grant...or renewal of the licence.”

And then, there is a further appeal against the decision of the magistrate to the Court of Appeal. I like that very much.

The discrimination clause is also a very good clause and that is consistent with our Equal Opportunity Act. I know I got into trouble last week because I talked about conflicts of interest but, again, I think conflicts of interest is par for the course. You do not need to legislate for this. If there is a conflict of interest, it should be declared, and under this Act, there is now a duty on members to declare possible or perceived conflicts of interest in respect of applications and to withdraw from considering applications where conflicts of interest arise.

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So, all in all, there are many positives to this legislation and I thank the hon. Minister for bringing it.

**Hon. Ramadhar:** Thank you very much.

**Sen. A. Vieira:** Thank you, Mr. President. [*Desk thumping*]

**Sen. Faris Al-Rawi:** Thank you, Mr. President, for that warm reception. [*Laughter*]

**Sen. Ramlogan SC:** That was for the last speaker.

**Sen. F. Al-Rawi:** I had to prompt my colleagues there, Mr. President, [*Laughter and desk thumping*] who I am sure loves me nonetheless. [*Continuous desk thumping*] I think we were caught off guard by the fact that we expected someone on the Government's Bench to stand but nonetheless, I rise to join in contributing to this particular debate. This Bill before us seeks to amend eight pieces of law and two bits of regulations. We have been regaled with a very short discourse by my learned colleague, the Minister of Legal Affairs, whom I welcome, on behalf of us all, to this august Chamber, but I think it is important to start off for the sake of *Hansard* as to what we are doing here today.

The Acts to be amended are the Liquor Licensing Act, Chap. 84:10. This is the twenty-third amendment to that Act; that Act was born in 1955 by Act No. 27. We are amending the Cinematograph Act, Chap. 20:10; that was Act No. 18 of 1936. We are amending the Registration of Clubs Act, Chap. 21:01, which was begun by Act No. 28 of 1955; this is the tenth amendment to that. We are amending the Theatres and Dance Halls Act, Chap. 21:03 and that was Act No. 39 of 1934; this is the tenth amendment to that. We are amending the Moneylenders Act, Chap. 84:04, which was born by Act No. 42 of 1932; this is the tenth amendment to that. We are amending the Pawnbrokers Act, Chap. 84:05, which was begun by Act No. 22 of 1889; this is the eighth amendment to that. We are amending the Licensing of Dealers (Precious Metals and Stones) Act, Chap. 84:06, which was born by Act No. 11 of 1945; this is the second amendment to that, and we are amending, as Sen. Hadeed will well remember, the Old Metal and Marine Stores Act, Chap. 84:07, which was Act No. 12 of 1904; this is the third amendment to that. We are seeking to also amend the Cinematograph Regulations and, as well the Registration of Clubs Regulations.

If I were to divide this, Mr. President, into a debate on proportionality, we have a legitimate aim before this Parliament. The legitimate aim is the freeing up of magisterial time to allow for streamlining, in particular, in relation to the

criminal justice system and the magisterial system. Trinidad and Tobago is divided into several magisterial districts. The magistracy in Trinidad and Tobago is comprised of 13 senior magistrates and 42 magistrates under the Chief Magistrate and Deputy Chief Magistrate. The Magistrates' Court, as my learned friend reflected, includes the management of the Petty Civil Court, the matters which are for preliminary enquiry by way of indictable proceedings and for general criminal matters.

What we have by way of statistical information, Mr. President, is that the Magistrates' Court, statistically, in the Annual Report of the Judiciary of the Republic of Trinidad and Tobago 2012—2013 entitled "Reshaping the Judiciary Identity", in looking at page 17 of that report under Court Performance, we see the hon. Chief Justice reflecting upon the fact that in the Magistrates' Court, a total of 130,872 new matters were filed while 86,986 matters were disposed of, so 86,000 out of 130,000 were disposed of. This means that there was a marked increase in the work of the magistracy in the 2012/2013 Law Term when compared with the previous year in which a total of 116,903 new matters were filed and 81,953 were disposed of.

When we look to the judicial reports for 2010—2011 and 2011—2012, the story is the same. That is, an ever-growing magisterial system filled with literally over 130,000 cases where at least 50,000 of that 130,000 are left behind. You add that on to the 30,000 left behind the year before, and the 25,000 the year before that, and we are already close to another 100,000 cases left behind in the Magistrates' Court. So this particular amendment in seeking to free magisterial time is apposite to our best interests and does constitute a legitimate aim which a Parliament ought to consider.

In terms of this Government's approach to dealing with a reform of the criminal justice system because that is what this legislation is about, this Bill proposes a bifurcation of effort. On the one hand, to free the magisterial time in eight pieces of law by harmonizing the approach to substitute a magistrate out for a licensing committee which comprises a Clerk of the Peace and several other persons, which I will come to in a moment. The second purpose which it has is to deal with the issue of fines as relates across those eight pieces of legislation, and the two regulations that we contemplate.

Mr. President, I took the opportunity to have a look at our appropriation Bills and our supplementary and variations to those appropriation Bills in the period 2010 to date. Now, it is a fact that the People's Partnership Government has accumulated for expenditure some \$275 billion in its back-to-back budgets and

supplementary appropriations. It is a fact that that figure in four years is higher than eight or nine years of PNM budgetary allocations which amounted to \$271 billion. But the operationalization of the improvements to the criminal justice system lies mainly in the auspices of two Ministries, and they are the Ministry of the Attorney General and the Ministry of Justice. In the period 2010 to date, the period that the People's Partnership has been in Government, the Ministry of the Attorney General has had \$883,472,270 in budgetary allocations and the Ministry of Justice has had \$2,249,537,840; in total amounting to \$3,133,010,110.

Now, Mr. President, I have reflected upon that because in the budgetary contributions by the respective Ministers of Justice—Mr. Volney as he was Minister of Justice, Ms. Christlyn Moore as she was Minister of Justice and now the hon. Sen. Emmanuel George as he is Minister of Justice—and in the contributions of the hon. Attorney General in the period 2010—2013. Those four budgets that came up and various supplementations, we had this Government's recognition, at least in terms of words stated, of the plight which the criminal justice system suffers.

Indeed, in 2010, Mr. President, Herbert Volney, sitting as Minister of Justice, had a lot to say about the improvements to the criminal justice system as they relate, in particular, to the magistracy, and this is the very aspect and core concept that we are looking at in this Bill. In the budgetary contributions, I believe, of Mr. Volney, on October 14, 2011, we had significant reflection and, in fact, promise of an amendment to the criminal justice system at the Magistrates' Court level. Mr. Volney reflected upon the bottleneck that obtains in the Magistrates' Court and he said, specifically, that the Ministry of Justice has obtained the approval of Cabinet for a template for the construction of purposed-built judicial centres in disparate communities in Trinidad and Tobago based on an architectural prototype.

He promised that there would be an open and transparent system of procurement and that the first court would, in fact, be in Arima. He said that the intention was to free up the workload of our magistrates summary trials which will now proceed unhindered by long lists and adjourned dates for presiding officers. He said, Mr. President, and went into a little more detail as to how they intended to focus on bringing relief by way of an important amendment, then contemplated, called the Administration of Justice (Preliminary Enquiry) Act.

Now, that piece of legislation works in harmony with this Bill because the intent of this Bill is to look at, as we are today, the issue of magisterial time and a necessary corollary to producing more productive magisterial time was intended

by this Government and supported by the entire Parliament through a particular vessel called the Administration of Justice (Preliminary Enquiry) Act. The population now knows that Act as the section 34 legislation. That particular piece of legislation—[*Interruption*]

**Hon. Senators:** But you supported that.

**Sen. F. Al-Rawi:** That is why I said the entire Parliament supported. That particular piece of legislation, Mr. President, we all remember, was intended to remove the indictable proceedings preliminary enquiries out of the Magistrates' Court and to give them to Masters of the High Court to be appointed in specialist courts to be built.

**2.45 p.m.**

Now, the question for us here, in looking at this Bill, is: Are we achieving the correct effort, in the correct area of the Magistrates' Court? We know for a fact that the Administration of Justice (Preliminary Enquiry) Act crashed and burned a bitter death and has not been proclaimed, save for the section 34 proclamation and that which was causing its repeal. But, Mr. President, when we look at the Judiciary's statistics and we analyze where the main backlog areas are, again reflecting upon the Annual Report of the Judiciary 2012/2013, Mr. President, we note that the vast amount of magisterial time is actually spent in ticketing or traffic cases.

And, Mr. President, in the tables to the back of that particular report, we see a significant amount of revenue, some \$39,789,904 collected by way of traffic tickets alone. Literally, thousands of cases, on the traffic cases when we looked to the annual caseload by districts and courts. Mr. President, that is giving us a little backdrop into where this law comes about. The legitimate aim is identifiable. It is laudable to support an amelioration of the criminal justice system or magisterial system, in particular, by freeing up magisterial time but, Mr. President, we have a few problems in the Bill, as drafted. My learned colleague, Sen. Henry, reflected upon some of them, and if you would permit me, Mr. President, I would like to go a little bit deeper into some of them.

Mr. President, we are harmonizing eight pieces of law but we have not, most respectfully, compared apples with apples. We are, Mr. President, seeking to re-define the licensing committee as no longer comprising—okay, “leh” me take a step back—the eight pieces of law are all hinged—seven of them are hinged to one. The seven other bits of legislation are all hinged to the licensing committee Act, Mr. President—Liquor Licences Act, Chap. 84:10. And what we have done,

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in this Bill, is to propose that the licensing committee no longer be constituted by a magistrate sitting there, unless and until we get to the point of an objection; but that it instead be comprised, Mr. President, of—by a new section 5 which repeals section 5 of the parent law—a new entity, which is to comprise the Clerk of the Peace, a person nominated from the THA, a person nominated from the municipal corporation of the municipality in which the Magistrates' Court is located, and a person nominated from—and these are the words—the local business associations in the magisterial district.

So we are now having a licensing committee, Mr. President, which, if we look at the words alone, cause some degree of pause, for us at least. How does one define what the local business association is? What happens when we have competing local business associations? The Downtown Merchants Association, the Chamber of Commerce, the Law Association or some entity that may have an equal but not business association. Should they be included? But, Mr. President, what is missing from this construct, if we are looking to better that which we have, is the balancing act to include the residents' concerns.

So we have business associations—residents perceive that they are victims of big dollars. You have heard my learned colleague, Sen. Vieira say that he has successfully prosecuted matters, perhaps sotto voce or implied in there was the issue of maybe he did not believe quite frankly that he should have succeeded on every occasion, as sometimes all lawyers do. But, Mr. President, the fact is, the vast majority of concerns come from residents themselves. And, Mr. President, when you look to the parent law, the Liquor Licences Act, there is a very interesting provision in there and I believe it is section 20(4). In that particular law, Mr. President, if I just find it. Yes, section 20, subsection 21(4):

“Where the licensing committee is of the opinion that the grounds of any person's objection to a renewal are unreasonable or frivolous, the licensing committee may make an order for the payment by that person to the applicant of a sum for costs (to be named in the order) which the licensing committee thinks just...”

So the residents, Mr. President, under sections 20, 21, 21(A), 21(B), 21(C) of the parent law, have the ability to make objections but the licensing committee is now going to comprise business interests, as are undefined, and will not include residents' interests. And residents are subject to penalty, under section 21(4) of the existing law, to have the burden of costs awarded against them where the general rule in the Magistrates' Court is that you do not have costs or any cost beyond a couple hundred dollars. So the first question arising there is: Are we having the correct balance of the residents' interests?



Another issue which arises for consideration, Mr. President, is the operationality of the Minister. I wondered, in reading this law, who the Minister was. There is no definition of Minister in the law. I did not know if it was going to be the Minister of Legal Affairs or the Minister of Finance and the Economy because, Mr. President, all these eight pieces of law that we are touching, actually have to do with excise duties—that is, customs and excise. Those are divisions of the Ministry of Finance and the Economy. All moneys collected under the eight pieces of law, which we are amending, all go to the Comptroller of Customs, who makes declarations. So do we have the correct Minister piloting this Bill? Do we need to include ministerial definition in the parent laws, these Acts that we are seeking to amend?

Mr. President, what we have—and there will be a great amount of detail in committee stage to try to get it right. But, Mr. President, what we have here, in seeking to harmonize eight pieces of law, is that we do not have harmony in the eight pieces of law. And I wish us to reflect upon, Mr. President, the proposed amendments to section 21(A). My learned colleague, Sen. Henry, reflected upon making it easier for objectors by having them put their provisions in writing. The new section 21(A) is almost exactly the language of the old section 21(A), Mr. President, save that it leaves out a very critical piece of wording.

Section 21(A), in the parent Act, we replace the words “licensing committee” with “Magistrate” and, Mr. President, we remove the following words specifically: “by proof on oath” before the committee. And that dives to the constitutionality issue of the removal of due process under our law, Mr. President. When we look to the other pieces of legislation to be amended and specifically the Cinematograph Act—the other—Pawnbrokers Act, the old metals and precious stones, those bits—in fact, Mr. President, we are keeping, in some of them the words: “evidence on oath” but we are removing, from the Liquor Licences Act, the provision for “evidence on oath”.

Now, the concept of “evidence on oath” is a critical issue for us because it is only when you are sworn in and you go to give evidence on oath that you make yourself liable for perjury, Mr. President. And therefore it is critical that we balance any provision by maintaining due process clauses at the very least for the following reasons: number one, because several of the other bits of law, which we are amending by this Bill, keep the expression “evidence on oath” and secondly, Mr. President, to remove it, you are, in fact, watering down the due process provisions which the Constitution of Trinidad and Tobago prescribes we ought to have.

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Thirdly, Mr. President, by the fact that residents are exposed, under section 20(4) of the parent Act, to the liability for costs, if deemed to have brought a frivolous or unreasonable complaint, that exposure to cost, Mr. President, ought to be balanced off and the owner of premises ought to have a balancing off for any objector coming in, Mr. President. That is also met by the fact that you have the ability to deal with objectors under the parent law of the Liquor Licences Act. You have fairly significant provisions which allow you to punish, by way of penalty and imprisonment, persons that come and seek to deceive the court.

So removing the provision for evidence upon oath is very dangerous, Mr. President. That is also added by the fact that in one of the other pieces of legislation which we seek to bring, Mr. President—and that is the Registration of Clubs Act, I believe it is—we are removing specifically, whilst keeping the words “on oath” in that particular legislation, we are removing the section of the parent law which says that evidence ought to be taken upon oath, Mr. President. And therefore we have a lack of harmony in bringing forward the amendments that we are proposing to harmonize.

It took me quite some time, Mr. President, to compare Act for Act in relation to this Bill. And I think it very critical, before we cast any vote, that we actually look to the specific sections to make sure that we are marrying the procedures correctly.

Mr. President, we have another issue and that issue arises in the context of this Bill in dealing with the Clerk of the Peace. We are proposing to substitute out—and this is an operational issue—the “Magistrate” for the “Clerk of the Peace”. But how many Clerks of the Peace do we have? We actually do not have that many Clerks of the Peace. The Judiciary has in it, in the three reports that I have looked at, a statement of the number of Clerks of the Peace per magisterial district. And, therefore, the resource allocation has to be met by way of an undertaking from the appropriate entity, as to the improvement in the number of persons who will occupy, as public officers, the positions of Clerks of the Peace.

My learned colleague, Sen. Henry, also reflected upon the conflict provision, Mr. President, where one is intended, in the Bill before us, to declare a conflict of interest. But when we look to the statement of conflict of interest, we run into some problems.

The conflict of interest, as proposed—and this is in clause 2 of the Bill which proposes an amendment to section 5 of the parent Act, the Liquor Licences Act. The proposed subsection (5) says:

“For the purpose of subsection (4), a conflict of interest is deemed to arise if a member of a licensing committee makes or participates in the making of a decision if he knows or ought reasonably to know, that in the making of the decision, there was an opportunity either directly or indirectly to further his private interests or that of a member of his family...”

And here are the words that are troublesome:

“or...any other person.”

What does that mean?

“or...any other person.”

Is it not a direct potential that every member of a licensing committee is furthering the business of any other person? Because he is allowing the person—the applicant before the committee—to get his application, to make a dollar. So are we not therefore automatically helping “any other person”? If we are thinking about a conflict of interest clause, Mr. President, perhaps we ought to look to the Financial Institutions Act, Chap. 79:09, section 3.

In that particular piece of law, Mr. President, we have a definition of connected parties. Now, not all of it will be relevant but there is certainly terminology in there which speaks to legal and/or equitable interests to a person in a tighter definition. It includes the person, the person’s wife, a co-habitant, a child, a relative of a child, with a limited circle of operation. I fear that the proposal in clause 2 of this Bill, Mr. President, is problematic insofar as there is a difficult concept for definition and that is “or of any other person”.

### **3.00 p.m.**

Mr. President, in looking at the issue of harmonization as well, there are other aspects of the parent laws that we propose to amend that require consequential amendment and this Bill has not contemplated all of them. If you go through each piece of parent law, step by step, it becomes apparent that the legislation which we are proposing to amend these eight pieces of law, that we have not really looked at the tight procedures inside of all of them and I am not speaking about amending everything including, as we say, the kitchen sink. What I am saying, Mr. President, is that there are a number of pieces of consequential amendment that we really ought to be looking at, that is not properly contemplated here.

Mr. President, we have to factor as well the issue of the allocation of resources to make this law work, and in factoring that allocation of resources we have to contemplate that, we as a Senate must ask ourselves: Do we really want to put every piece of law that we are proposing, the eight pieces of law, under a

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licensing committee? And I say that specifically with respect to the Old Metal and Marine Stores Act, with respect to the Licensing of Dealers (Precious Metals and Stones) Act, as well as the Moneylenders and Pawnbrokers Act.

Let us disaggregate those pieces of law from the other pieces of law which we propose to amend, which lend themselves to a better administrative provision and let us look at them in the context of the Proceeds of Crime Act and the Financial Intelligence Unit Act. What we know is that we amended the Financial Intelligence Unit Act, to allow us to have certain listed businesses regulated by the Central Bank or the Financial Intelligence Unit and, Mr. President, we have specifically contemplated that money or value transfer of services, gaming houses, jewellery and private members' clubs ought to be included as under the Financial Intelligence Unit.

And let me explain and drill down the cause for concern that I have here. This Bill is a social Bill. It is not quite entirely legal. It is not quite entirely financial, though those two appear to be the objectives for discussion. It is social insofar as, in amending the Moneylenders Act, in amending the Pawnbrokers Act, in amending the Precious Stones and the Marine Stores, et cetera, those pieces of legislation, we are affecting the lower strata of our society that engages in a regular system of financing through these entities.

After all, Mr. President, a moneylender is authorized, under the parent law that we seek to amend here, to charge up to 24 per cent interest. A pawnbroker is entitled to seize assets. This affects the poor man. It is the poor man that goes to borrow money at these institutions where he is deemed credit-unworthy for lending by established institutions. And, therefore, that is the reason the parent laws, which we now seek to amend, have inside of them contemplations of certificate of character and fitness and propriety for judicial—a puisne judge, meaning a magistrate in this instance—consideration.

So do we, as a Parliament, want to put an automatic system of approval for moneylenders without a magistrate, unless it is by way of objection? Do we want to remove a magistrate's discerning legal eye from the pawnbrokers system? Do we want, Mr. President, to remove the precious metals inspection, the precious stones inspection?

Because as we know, Mr. President, the scrap industry is one of the industries that operates under the marine stores and scrap legislation that we are contemplating here, Old Metal and Marine Stores Act. So are we absolutely sure, as a Senate, that we want to remove a magistrate's inspection as a licensing committee there?

I dare to say that, perhaps, we ought to look at that more carefully. I am not that comfortable, particularly insofar as pawnbrokers, particularly insofar as old metal operators and moneylenders are governed in some instances, specifically by the Proceeds of Crime Act and the Financial Intelligence Unit Act, that they are governed by a stricter system. And, therefore, Mr. President, I think it important for a magistrate to be able to look into the eyes of an applicant and size and assess the magisterial responsibility.

Now, Mr. President, I accept that the liquor licences can be easily disaggregated. The bona fides of that appear immediately apparent. Perhaps, that is why my friend, the learned Minister of Legal Affairs, focused only on that piece of law. Because it is true that objections for new licences and for renewal of licences occupy a vast amount of magisterial time. But, the separate pieces of law, I think, deserve a second look and I am not comfortable with the removal of magisterial scrutiny, specifically with respect to the Old Metal and Marine Stores Act, specifically with respect to the Licensing of Dealers (Precious Metals and Stones) Act, specifically with respect to the Pawnbrokers Act and specifically with respect to the Moneylenders Act and that is because they affect a financial system, albeit of a small level.

It is akin to the micro-financing systems which flourish in Bangladesh, in Indonesia, in other systems, or the “sou sou hand” that our people operate. The question of regularity, financial scrutiny and of judicial balance and inspection to ensure that our citizens are properly protected, is the core issue in analyzing that submission of mind, Mr. President.

Mr. President, we have as well contemplated in this particular law the issue of alternates in comprising section 5(1). We have the issue of the sale of alcohol to minors. We propose—in an amendment to section 60 of the Liquor Licensing Act—to remove the jail term associated with sale of intoxicating liquor to minors. Do we really want to do that?

It is laudable that we seek to raise the pecuniary aspect, on a first offence, second offence and third offence from \$2,000, \$5,000 and \$7,500 to \$7,500, \$10,000 and \$15,000. But why are we removing the jail aspect of it? Our society is crying out for protection of children. We dealt in the Senate the other day with a very important question and that concerned the number of live births to teenagers and we heard the statistics of 2,500 teenagers giving birth. That question did not ask how many stillbirths or abortions happened and I can tell you that the figure is closer to 10,000, Mr. President.

**Hon. Member:** Ten thousand what?

**Sen. F. Al-Rawi:** Ten thousand abortions and stillbirths for teenagers. *[Interruption]* That source comes by way of a conversation with the Minister of Health and the Minister of Education, if you want to know, when we sit and discuss serious business as serious parliamentarians.

The point, Mr. President, is not to beat the Government. That is not the Government's fault. That is a societal issue that we are all grappling with. And my point in relation to this Bill is, are we sure that we want to remove the protection that children enjoy against the sale of alcohol to minors, by removing a sentence of imprisonment from the judicial arsenal available to punish offenders of the law, Mr. President? Because you can easily see an advantage happening in respect of children.

Let us look at section 60 of the Liquor Licences Act, by which that amendment is proposed. We see here that we ought really to—and Mr. President, lest I am guilty of misleading the Parliament, the jail sentence has not been removed. There is none. What we have done is to raise the fine only and my proposal on the Bill itself is that we include a jail sentence. It does not change the core aspect of it.

Mr. President, we are looking at eight pieces of law and it is hard to flip between pages because we do not get a track changed copy of the Bill to be amended. That would be best in purpose to analyze what is going, what is staying, what is being amended and where it sits in the context of the parent law.

But there is a later provision for the removal of jail term, Mr. President and I will find it. It is certainly there. But the fact is, we really ought to be looking at our children and their protection.

Mr. President, if I return to a few other issues on the Bill. We are looking here—sorry, Mr. President—in inserting after the words “one year,” “in the case of a first or second offence”—this is section 60 as well—“and revoked in the case of a third offence” to have the licence, inserting after those words to have the protection for first and second strikes in relation to the sale of alcohol to minors amended, in my view, to the detriment of children.

Mr. President, there is another important issue which operates here. The Magistrates' Courts function by a combination of entities. They function by the sitting magistrate, the clerks of the peace, the justices of the peace—*[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. C. Robinson-Regis*]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you, Mr. President. I thank the Minister of Communications for his sterling recommendation of the extension of my speaking time. He is most generous indeed. I am sure that "no" was meant to be a "yes".

Mr. President, I was saying that there is an important articulation of resources in the Magistrates' Court. They are the sitting magistrate, the clerks of the peace, the justices of the peace and very importantly the police themselves; not only in the capacity of police prosecutors but also in the capacity of police that are required to attend to give evidence.

And the question, therefore, arises as to what the Government intends to do to support the amelioration of the police service and that is a critical issue when you look at the fact that this Government is capable of opening a police station on Duncan Street, for example, having a big fanfare in the newspapers and then having the entire police post non-operational with nothing inside. So are we really providing the resources to the police? [*Interruption*]

**Sen. Lambert:** That is incorrect.

**Sen. F. Al-Rawi:** Sorry, do you wish to contradict me?

**Sen. Lambert:** There are things inside.

**Sen. F. Al-Rawi:** Okay. There are things inside but there are no police and it is not operating and the fact is that, notwithstanding the grand fanfare for opening, much like the opening of a gas station in Tobago—which opened and then never operated—for the THA election. The issue of the police operationality in assisting the workload for this kind of improvement of the criminal justice system is critical and there is an expression, lest my learned colleagues get too—it just opened? Perhaps the Minister of National Security—do you want to state? Okay. I am volunteering to give way to the Minister of National Security to tell me it is opened, but he has declined. Mr. President, what I am saying is, it is critical for us to ensure that all elements of the criminal justice system operate in this context.

**3.15 p.m.**

Mr. President, when we look to the judicial statistics, and we look to the nature of the caseloads in the Magistrates' Court, the question which jumps out for consideration by the Minister of Legal Affairs is why not deal with the establishment of a traffic court? Why not automate a little bit better the processing of tickets? Some \$40 million a year is collected in tickets. The honourable Chief Justice has given certain directions which allow payments to be better facilitated, et cetera.

But, Mr. President, it is the freeing of resources in those matters that becomes a critical issue. Whilst this is a noble objective, this particular Bill, whilst there are certain problems conceptually as to whether we ought to include certain aspects of the laws that we are proposing or not, I wish to encourage hon. Senators to remember that we have not had a Minister of Justice, and this Minister of Justice in particular, tell us about the cutting of a single blade of grass for the opening of new magisterial courts?

We know that it is on record and stands to be uncontradicted, the fact that there was a breach of the procurement issues in getting the judicial complexes open. We know for a fact that the Minister of Justice, this Minister of Justice has not spoken to a single issue as to—*[Interruption]*

**Sen. George:** Mr. President, section 35(1).

**Sen. F. Al-Rawi:** Section 35 or section 34? Is that a Standing Order you are raising? There is no section in the Standing Orders. You want to go again?

**Sen. George:** Mr. President, 35(1).

**Mr. President:** I did not quite catch—what matter were you referring to that takes us into 35(1), I take it?

**Sen. F. Al-Rawi:** Well, if he is referring to Standing Order 35(1) which is on relevance, then I wonder how a Minister of Justice could not consider relevant, the establishment of magisterial courts.

**Mr. President:** Standing Order 35(1), one deals with—is really the judicial decision that is pending and—*[Interruption]*

**Sen. F. Al-Rawi:** What judicial decision, Sir?

**Mr. President:** I do not know, that is why I asked the question.

**Sen. F. Al-Rawi:** Mr. President, I have no idea what he is talking about. I am talking about the establishment of judicial—*[Interruption]*



**Sen. George:** Mr. President, the goodly—[*Interruption*]

**Sen. F. Al-Rawi:** No, no, no, Standing Order or explanation? Which one?

**Sen. George:** Standing Order 35(1).

**Sen. F. Al-Rawi:** Let us hear it. We can sit and let him rule.

**Mr. President:** I will hear from Sen. George, thank you. If you do not mind, I will take the position of Presiding Officer.

**Sen. George:** The goodly Senator is speaking to issues involving the opening of judicial centres, and about the opening of the police post on Duncan Street, and I do not think that is relevant to what we are doing here.

**Sen. Cudjoe:** Take notes and respond later.

**Sen. George:** I do not need advice from you.

**Mr. President:** I do not think that reference to those matters prejudices the interest of the parties, and I will allow Sen. Al-Rawi to continue. [*Desk thumping*]

**Sen. F. Al-Rawi:** Thank you, Mr. President. Mr. President, thank you very much. I am looking at the issue of the operability of courts. Magistrates sit in courts, magistrates too conduct this work and licensing committees sit in courts, and this Government is on record—I have every single budget contribution of the Ministers of Justice and the Attorney General from 2010 come forward, which promise courts. I am saying that I have said in this Parliament on umpteen occasions, that the judicial complexes cannot be built because of a breach of procurement procedures. And, therefore, the issue of operationalizing the law becomes critical to this debate. So, hon. Minister of Justice, I look forward to hearing your sterling contribution on this, because I have not heard it to date in any sitting at any time, and I think it is about time that we understand that.

Mr. President, I think it is also incumbent upon the Government to talk about the state of proclamation if not repeal, of the Administration of Justice (Preliminary Enquiry) Act, by which magistrates will be relieved of the burden of dealing with preliminary enquiries, so that they can better perform the objections under this Bill to come to them. It cannot be acceptable after \$3.3 billion in combined expenditure on the part of the Ministry of the Attorney General and the Ministry of Justice, that we have no statement whatsoever about the state of proclamation of that legislation. Where are we?

The honourable Chief Justice in his speech at the opening of the law term this year, Mr. President, spoke on the burgeoning workload of the Judiciary, and he begged the

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society to consider the issue of decriminalization, the issue of amendments to the jury system, certain issues including the operationality of courts and structures.

So, Mr. President, inside of this Bill, to house Clerks of the Peace who will work in licensing committees and magistrates in these committees, it is incumbent upon the Government to tell us where our money has gone. Where has \$3.3 billion gone? Where has two point something billion dollars in the hands of the Ministry of Justice gone? Where are the judicial complexes, hon. Minister? We look forward to hearing from you.

Mr. President, there is a need for every Member present, and I hope that the Independent Bench agrees with this, to look at the laws in their full context. If we have not read the entire parent law that we are seeking to amend, hon. Ministers, please do not put it to luck. Please exercise good conscience as Senators sitting here, and make sure we have read every section of the parent laws that we are seeking to amend. Why are we amending subsidiary legislation in the parent legislation here when there are provisions in the parent law, to allow for ministerial order to amend? Why are we doing that? I can understand the need to include the amendment for the penalties, because the Interpretation Act confines us to a penalty of \$200 for breach of a regulation, unless the parent law includes an offence, a sum higher than that, but, do we really need to do this?

So, Mr. President, I wish to end by saying, there is legitimate aim in this purpose. There is laudable intent, but there is confusion in the harmonization, the issue of conflicts of interest, the issues of whether evidence is given for objections on oath, or not on oath, the removal of the requirements for evidence on oath in some of the laws, the removal of magisterial scrutiny with respect to the moneylending aspect legislation, or the financial aspect legislation: pawnbrokers, moneylenders, old metals, precious stones.

Do we want to move away from a magisterial and judicial inspection and move just to an automatic licensing aspect where our less privileged people are going to be prejudiced potentially by lack of attention? The issue of the state of proclamation of the Administration of Justice (Indictable Proceedings) Act; the necessity of the Minister of Justice to finally speak if ever he does, about the judicial complexes promised, about the \$2.1 billion spent. We need to hear from the Government about where we are going, where our \$275 billion in budgets has gone, Mr. President. And I ask that this Senate pay close attention to the laws of Trinidad and Tobago on this occasion.

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

**Mr. President:** Sen. Drayton.

**Sen. Helen Drayton:** Thank you, Mr. President. I will be very brief, and let me say that I support this Bill 100 per cent. I recognize that it needs some tweaking and I believe that what was just mentioned by Sen. Al-Rawi with respect to children and the sale of liquor, that it is worthy of consideration although I would have thought that it is covered under the Children Act, and I think there is another Act under which it is already provided for.

I think that this is one of the most sensible and straightforward pieces of legislation that I have seen. I say sensible because it has very wide and deep, but positive implications, in that it removes from the responsibility of the Magistracy, thousands of matters pertaining to licences every year, and that means that it should assist in supporting the Judiciary in advancing and expediting a number of matters, specifically criminal matters, all of which affect us in many profound ways on a daily basis.

The Magistracy would still have responsibility with respect to appeals against decisions of the presiding committees, and that would now be responsible for granting licences, if I am reading the Bill correctly. I certainly think it is a more enlightened approach to the handling of disputes which is via mediation and the fact that it will be at a community level, it makes abundant sense.

Another good provision is the ability to shut down a place if there is adequate evidence with respect to discrimination against citizens. And with reference to residences, from what I interpret here, the residents would still have the opportunity to object to any matter that they think would affect them in a serious way.

I note that the clause with respect to conflict of interest is consistent with the provision in the Integrity in Public Life Act. As a matter of fact, it is an exact replication. I said I would be very brief, so with these few words, I support this Bill and as we said, there is recognition that some tweaking or probably a good bit of tweaking here and there is necessary, and I am sure we can deal with that at the committee stage.

I thank you. [*Desk thumping*]

**Mr. President:** Sen. Mahabir.

**Sen. Dr. Dhanayshar Mahabir:** Thank you very much, Mr. President. I too shall be brief and I would focus my brief comments, Mr. President, to the Moneylenders Act and the Pawnbrokers Act, both of which have some financial

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implications. I think as a preface to what I have to say, it is important to investigate the nature of these businesses. Sen. Al-Rawi did allude to the fact that both pawnbroking and moneylending are financial activities which are relevant to really the most impecunious in our society.

In the area of pawnbroking, we know that the pawnbroker really engages in a collateral type of loan, where in order to obtain a relatively small sum, you must pledge an item that he considers or she considers to be of value. One does not normally obtain the full amount of the value that one has pledged, one obtains in general a percentage, perhaps, maybe one-third for a period of time.

And, of course, the pawnbroker is really a moneylender in addition to a retailer of merchandise which he has obtained as security which, of course, was not redeemed. So he too operates in an interest rate environment and at the same time, there are storage fees which may apply to some items of a very large nature. There may even be some insurance fees if the items are valuable.

When one looks at the moneylender in the society, one sees that he may or may not really require collateral, but the moneylender, as he is assessing his customer base, is quite aware that these individuals are not able to obtain credit from a commercial bank, they are not able to obtain credit from a credit union; and they do not have credit cards. They are individuals who may have nothing to pledge, and they are the most vulnerable in the society.

So I took the liberty, Mr. President, to actually read the parent Act, and in reading the Act, I must say they were written, initially, somewhere in the 1930s, but they were very, very clearly written. One could understand, coming from a non-legal background, exactly the intent of the drafters at that particular time.

**Sen. Ramlogan SC:** “Ah change all dat now.”

**Sen. Dr. D. Mahabir:** You have changed it. I see. I hope then, Attorney General, you can go back and follow the examples of some of the drafters of these early pieces of legislation.

**3.30 p.m.**

So in this context, Mr. President, I would like to refer to the parent Act itself, and the parent Act of the Moneylenders Act. I will confine my comments to the Moneylenders Act. In the Moneylenders Act we do have a schedule in section 12(2), and it says in this particular piece of legislation that:

“Interest which may be charged on loans by a moneylender licensed under this Act, shall not exceed the respective rates specified, namely—...

On loans not exceeding \$25.00 simple interest at the rate of 6%...”

Well, the reality, Mr. President, is that you cannot get a box of chicken and chips now with \$25, so I think if we are really reviewing the legislation, I would put up for consideration by the hon. Minister that he looks at this section 12 and considers the following: on loans not exceeding \$100, simple interest at the rate of 60 per cent; on loans not exceeding \$200—so we remove, since we now have the opportunity to really correct the legislation as we move forward—on loans not exceeding \$200, that is for someone who is really very impecunious but he wants to borrow \$180, simple interest at the rate of 48 per cent; on loans not exceeding \$300, simple interest at the rate of 36 per cent, and on loans exceeding \$400, simple interest at the rate of 24 per cent.

If we are correcting, I think we need to look at this section 12 and bring the value of the loans up to make the loans more relevant. I think it is unlikely that individuals will seek to borrow, as the legislation says, sums of \$25 and \$50. We can make \$100 our minimum loan and then you can follow the rates accordingly. I can circulate these amendments to make it more relevant. And in this context, Mr. President, when one reviews the practice of moneylenders across the international arena, Singapore, et cetera, one sees that the legislation in Trinidad and Tobago is really very, very fair in relation to what is charged by moneylenders in domiciles abroad. For example, in many of the states in the United States they charge around 10 per cent per month as interest, and we are really saying we are going to charge something like 4 per cent per month, and so 60 per cent per annum is in fact very reasonable. It is not in fact low, but in terms of comparison internationally, 60 per cent per month is reasonable.

So I would recommend to the hon. Minister that he looks at this section 12 and then he starts with loans not exceeding \$100. So you remove \$25 and \$50, so that the legislation in fact can be a little bit more current.

But then an even more important amendment I would recommend for the hon. Minister, Mr. President, is with respect to section 11, and in particular in section 11(2) of the Moneylenders Act. We have the following, that when we read through we see that a note or a memorandum must be prepared by the moneylender outlining the agreements and the terms of this particular loan. So there is a contract. There is a memorandum. It must be signed and there must not be any duress. So it appears to be very much on par with proper practices. What I would recommend to the hon. Minister is this, that if we are to protect the vulnerable, an individual who goes to a moneylender because there is some emergency, some calamity; it may be a death in the family, he has to arrange a funeral quickly and he needs the services of this individual, he is not aware of the

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rates which are in the parent legislation, I would recommend the following in order to protect the vulnerable and those at risk, the poorest in our society—I would recommend that a copy of the schedule of interest rates contained in section 12 below be affixed to this note, contract or memorandum.

I do not think it is judicious, fair, or right to leave it up to the goodwill of the moneylender to charge the interest rates as obtained as outlined in the regulations here. I think there should be a particular note, a replication of this section 12 in every contract so that the borrower who is getting into this agreement is able to actually see what the law says. Not every borrower in search of a moneylender is aware of this legislation, Mr. President. In fact, I was not aware of it until I read it a few days ago.

So these rates I think ought to be made aware to every borrower, and it could be printed at the back of every contract so a borrower knows that if he takes a loan of up to \$100 he is going to pay 60 per cent per annum, if he takes a loan of up to \$200 he pays 48 per cent, and we can protect this helpless borrower in this way so that he is aware of his rights under the law. I think if we do that we would be able to protect the consumer in an important way.

And if we were to look at section 13, Mr. President, in section 13 we see that it says:

“Any person who loans money at a rate of interest higher than that authorised by this Act may be prosecuted summarily on the complaint of any person...”

The issue is to whom are we going to complain? Are we going to complain to the police? Well we know that it may not benefit the individual to complain to the police who may simply file the report. What we need is a more effective way to protect the consumer of this loan. Could we consider, for example, that instead of putting the matter to the police for someone who is extracting a usurious rate of interest, could we look at an agency such as the Consumer Affairs Division of the Ministry of Consumer Affairs or even the banking ombudsman, to which we could refer disputes?

We do not have a small claims court. If there was a small claims court in the country, an aggrieved individual can go and plead his case to a magistrate, but we do not. In trying to protect the individual from any wrong that he or she may have experienced from a moneylender who may have charged more, or who may be using means to get his money which can be quasi-illegal, we know that the moneylender can—because he has no security that he could seize—in fact use means which can be intimidatory. We know that he can use means which can be threatening, which can in fact threaten to cause harm to life and limb of the borrowers.

This is the practice of loan sharks across other jurisdictions, and if an individual has been so adversely affected for failure to comply and for failing to pay, there is an enforcement arm in every one of these organizations, this individual should have recourse to something like the Consumer Affairs Division, or the banking ombudsman who can then initiate proceedings to have the licence of this particular individual temporarily suspended, or even revoked if this individual is behaving in a manner that is unacceptable. So as a condition of the licence of lending money, it should be that there must be penalties and the penalties are if you are going to use means, quasi-illegal means, such as threatening individuals, if you are going to name and shame them, causing them to lose stature, if you are going to intimidate them for failure to pay on time, then in fact you can in fact lose your licence. So I think that this is something I would like to see considered by the hon. Minister.

Also in the area of this parent Moneylenders Act, since we are in the business of tightening up the legislation, I think we need to look at certain fines. For example, in section 13 of the Act, it says that an individual who has violated a particular section can be subject to a fine of \$2,000, but this was, I think, enacted somewhere in 1976. From 1976 to now, 38 years almost approaching 40, when I simply inflated \$2,000 by an average rate of inflation of 5 per cent, I came up with a figure of close to \$15,000. I know the amendment calls for \$4,000, but if we are to look at fines across all the pieces of legislation, I think it is important for both the Office of the Attorney General and the Minister of Legal Affairs, to look at exactly when the legislation was passed, and simply have the staff examine the inflation rates from then to now, use the Consumer Price Index so that the fines that are going to be levied on those who break the law will now be relevant in terms of today's purchasing power. So we do need to look at those fines, and to bring them up to today's level where the fines will now be relevant to the purchasing power of today's dollar.

In the Moneylenders Act, on the very final schedule, there are certain businesses which were deemed to be exempt from the order, and in these businesses, Mr. President,—I think it is good that we can look at them—we see some businesses such as International Trust Limited, Bank of Credit and Commerce International, Trade Confirmers Limited. Well, these businesses disappeared a long time ago, and they should not be in any current legislation. BCCI went bankrupt about 20 years ago, International Trust and Trade Confirmers actually, when they collapsed in early 1981, 1982, precipitated the long depression of the 1980s, and so it is a good, I think, occasion for the Minister to look at his schedules and remove some of these firms which no longer exist so that our laws themselves can be brought up to date.

With respect to the Pawnbrokers Act, Mr. President, just one last comment, and that is with respect to the second schedule, “Profit and Charges Allowed to Pawnbrokers”. We do know that the pawnbrokers are engaged also in moneylending, and we have here an interesting formula which says that for every \$4.80 or fraction lent, the charge to the pawnbroker would be 20 cents per month. I think it is important to understand the relationship here. One does not have a query with the \$4.80, but if we were to move from absolute amounts to percentages, because 20 cents on \$4.80 amount really to  $4\frac{1}{2}$  per cent per month. And we could look at that and maintain a percentage rate.

So we are saying that the amount approved for a pawnbroking loan shall be for an amount less than say \$500 shall be  $4\frac{1}{2}$  per cent per month, and an amount in excess of \$500 shall be 4 per cent per month, keeping strictly within the proportions established by the initial creators of the law. This would in fact make the law a little bit more relevant and transparent. But more important, Mr. President, there is in fact an interesting charge here for a pawn ticket, because you see there is the habit of institutions when they cannot make money on rates, they make it on levies and charges, and the initial framers of the law indicated that a pawn ticket should be no more than 10 cents—10 cents for a pawn ticket. Now if the pawn ticket is 10 cents, and your loan is \$4.80, it simply means that the pawn ticket should be one-half of one per cent of the value of the loan. This is an important point, it may appear trivial because if we do not place a limit on the value of the pawn ticket, what we can have is that the pawnbroker will charge his  $4\frac{1}{2}$  per cent for the poor man who has loaned something for less than \$500 but he can charge him a few hundred dollars for his pawn ticket. And so in order to prevent exploitation of the man on the ground, which is the interest of all the people in the Chamber, we do not want the poor person who, having pledged his piece of gold jewellery, to know that he is being charged  $4\frac{1}{2}$  per cent per month, but then at the same time to be faced with an administrative charge of \$100, called legal paper work, price of the pawn ticket.

So if we can establish percentages, Mr. Minister, we will go a long way towards bringing the legislation up to where we are at this current time. We can have the fees properly inflated to make them relevant for 2014 and 2015, and we can ensure that these institutions, the moneylenders and the pawnbrokers, in particular, are confined to charging the interest rates as established in the Act.

**3.45 p.m.**

We can ensure if we have these interest charges printed on the pawn tickets and printed on the contracts, the individual who does not know this law, when he sees his receipt from the moneylender and from the pawnbroker will know this



pawnbroker is charging me more than the law says, and then he can be able, in that situation, Mr. President, to take his complaints elsewhere. I would recommend the banking ombudsman or the Ministry of Consumer Affairs. If that is done, and if we can control the pawn ticket prices, make sure that the administrative fees, charges, storage fees, and so on, are not added on—so that it becomes very difficult for the poorest people—I think we in this Chamber will make some kind of difference in the quality of life of the poorest members of our society who are forced to access these financial resources, and we can have a clear conscience that we have done all that we could to protect the interest of the vulnerable.

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

**Sen. Diane Baldeo-Chadeesingh:** Thank you very much, Mr. President. I rise to contribute to the Miscellaneous Provisions (Licensing Committee) Bill, 2014. My contribution today is going to be a rather short one. At the onset, I would like to say the Opposition is in support of this Bill. Having said that, in my research and as my colleagues have stated earlier, I too came upon many questions in doing my research in preparation for this debate today. I wish to share with this Senate some concerns that became evident during that research. To accumulate my research I spoke to quite a number of persons—persons who are bar owners, I spoke to attorneys and I even spoke to some magistrates.

Some of the points that I wish to share when I came here at 1.30, some of my colleagues and other Members of this Senate articulated, so I will stay clear of those and just charter the safe course of ones that were not contemplated. At the onset, the hon. Minister said that justice delayed is justice denied. But I would like to give my take on that and say that the process of making law is as important as the law itself. [*Desk thumping*] I agree with other Members of this Senate when they spoke to magistrates now getting the opportunity and the chance to deal with other matters—other urgent pressing matters, matters that they were too busy dealing with before.

I heard from Members of this Senate about the time management problem and what the courts might be doing otherwise if they were not considering licences and granting licences, the inflation that the hon. Minister also spoke about and, of course, Sen. Dr. Mahabir greatly calculated and outlined the inflation rates over the years, but I have some concerns and the questions—what better place to answer them or to get the answers from, but the Parliament, right here and right now. And there is a legitimate expectation of persons applying for a liquor licence to be obtained once they have complied with all the requirements.

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Now, everything must facilitate this process, Mr. President. The licensing committee must sit, and they must sit regularly, and I have a reservation concerning the administration and regarding how this will work. We have no objections to the various amendments because times have changed and it is important that we change [*Desk thumping*] to keep things relevant and to keep things modern. The Minister spoke to the inflation—like I said—and so on, but in some of my research it is interesting the answers that I came up with to some of the questions that I have. Some of the persons that I spoke to were very distinct and they said, in every jurisdiction one day for the week in every district, or one day for the year in terms of granting of annual licences, is not much time to give. That is on the one hand, but others were in support of the licensing committee, with an addition of some saying that the licensing committee can also incorporate someone from the police service or someone from the fire service.

But currently, the time of the magistrate really is taken up when there is an objection. What is proposed is not a court process until someone objects, until they are aggrieved by a decision that was taken. What was common though, having said what, on the one hand, some persons were saying as opposed to the other, there does not appear to be any checks and balances on the licensing committee, leaving it wide open for corruption, and I will explain that.

The Clerk of the Peace is attached to the court, and whenever a committee sits for transaction of business, the Clerk of the Peace shall be the chairman, under which he has total control. But who is the Clerk of the Peace? The Clerk of the Peace acts, or he is like a registrar of the Magistrates' Court. And in the appointment of the licensing committee we must be careful in who we put there. Persons knowing each other and the perception that is created by persons that know each other—because you have three persons altogether and then, you know, the committee can sit with two of those members. But in courts these matters warrant a different kind of approach, simply because you do not expect the courts to be corrupt or the magistrate to be corrupt. Magistrates by their very office are trusted and the scrutiny is more apparent and more effective.

Administratively, this is my second point. Where will filing and the procedure take place? Because we have to make sure that all facilities and accommodation are put into place. Has this been done? We must have proper facilities in order for it to work, and where exactly will this committee sit? Yes, we on this side agree with the penalty in principle with respect to fines. They are exorbitant, and they might perhaps seem to be a deterrent for persons who want to not follow, you know, what is outlined and they should do. For instance, the penalty in respect— and this concerns the Licences Act:

“...the penalty in respect of the duty to place signboards outside the front of licensed premises from four hundred dollars to five thousand dollars...”

Persons might feel it is a little draconian, particularly when you are keeping in mind a man with a small business who depends on this licence to make a living, Mr. President. And whilst I agree with that, another way of looking at it is that somebody, for instance, who does not want to register something in a stock book, for instance, would have to pay an exorbitant fee, and it really is not in keeping with the promotion of small businesses. So that was a point that I got. I would like to put on the table that in order to get proper guidance, maybe some further consultation needs to be done with magistrates and persons that deal with licences at the moment.

If a Clerk of the Peace is chairman of the committee, what are the checks and balances put in place that will monitor or prevent him from being corrupt in approving licences? Because as I understand, the Clerk of the Peace has no judicial function, so how does this review take place? If it is a court process, where does the authority come from, as opposed to an objection?—because an objection becomes a court process. Then again we come back, how is this saving time in the Magistrates’ Court?—because it has to come back to the magistrate.

**Sen. Al-Rawi:** Good point.

**Sen. D. Baldeo-Chadeesingh:** And back to the magistrate we go, but if it is an objection before the court, how do we deal with it? How is that process going to take place? For instance, in the Woodbrook area, many residents file objections and they are almost heard right away, but now what will the committee do in that instance?

How are committees to be paid, is my third point, seeing that the Clerk of the Peace is already attached to the court.

**Sen. Al-Rawi:** Good point.

**Sen. D. Baldeo-Chadeesingh:** Is he going to be paid an additional stipend or separate from that? And how much is he going to be paid for sitting once per week? So, you know, perhaps there needs to be some sort of consultation to get this thing done right. [*Desk thumping*] One of the persons I spoke to actually opened up my eyes, wide open in terms of suggesting, and I agree, a phased basis of maybe first time offenders—if they receive a warning—in the case of small business owners; and in the second offence maybe a part penalty; and the third, a full penalty in the third time that the offence was committed in order to protect the small bar owners.

So I did promise initially that my contribution was going to be short. I did promise also that I had many questions, and so that is my very short contribution to this Chamber today but, as I said before, we are in agreement of this, but many things need to be looked at in its entirety, you know, so I leave that open and for the other side to answer some of those questions. Thank you. [*Desk thumping*]

**Sen. Subhas Ramkhelawan:** Thank you, Mr. President for the opportunity to make a very short contribution to this Bill entitled: “An Act to amend the Liquor Licences Act” and other parts of the draft legislation. I really wish to make one comment and one suggestion to the hon. Minister of Legal Affairs. First, I would want to welcome him to our Senate in bringing this rather extensive piece of legislation, though simple in form, to the Senate.

We have, in making the various amendments, sought to free up the work of the magistrate, and I think this is a most laudable intent. But beyond this, how we have crafted the amendments, I think we will have to come back to this Parliament over and over again for every increase, in terms of the fines, in terms of the penalties that are associated with breaches of the Liquor Licences Act, breaches of the Registration of Clubs Act; the Theatres and Dance Halls Act; Moneylenders Act; Pawnbrokers Act; Licensing of Dealers (Precious Metals) Act; and Old Metal and Marine Stores Act. I understand that Sen. Hadeed would know something much about this particular last piece of legislation and I would be guided by him as I continue with my contribution.

The point is, Mr. President, that I believe that it is time that we restructure these pieces of legislation so that we do not take up so much of the Parliament’s time if it is not necessary to do so. We will have to come back to this Parliament in very short order because of rising cost and the effectiveness of the fine and the penalty.

#### **4.00 p.m.**

Why should we not seek to adjust the process such that these changes in fines and penalties could be made by order or by regulation, subject to the negative resolution of the Parliament? The Senate has more than enough work to do, and our work is being set back by pieces of legislation that it may not be necessary to bring to this Parliament, unless there is significant objection to the fines that are being applied. And there is a process, and there is a remedy, and the remedy, really, is in the negative resolution that can be brought forward and that can be invoked in bringing the matter to the Parliament.

We have, as I said before, many pieces of legislation that require our urgent attention. It is not necessary for us to burden the Senate and, indeed, the wider Parliament, with some of these matters. I want to appeal to the Minister of Legal Affairs who, I am sure, will want to take this into consideration. Think about re-crafting the legislation so that the regulations can be made, or an order can be applied in a matter that is equitable, such that the fines can be increased relative to, whether it be inflation, whether it be GDP per capita, whatever it is, so that there will be some evenhandedness as to the increase in fines.

I do not want to have to sit through another session such as this, albeit short as it may be, to look at all of these pieces, all of these adjustments, all of these fines, and I am sure it is in the heart of the Minister of Legal Affairs to go back and make those amendments. But if not, I would appeal to him to put in place, measures, such that the second time around, or the next time around, we do not have to go through this process.

You want to free up the magistrates, free up the Senators, free up the Lower House—[*Interruption*]

**Hon. Ramadhar:**—put the burden only on me.

**Sen. S. Ramkhelawan:** And put the burden—if you want to put the burden on the Minister of Legal Affairs, so be it. He asked for the job, he has gotten the job. I ask that you free us from these impediments so we can actually deal with some of the more critical things that we have to do.

I am not saying that this is not critical. Hear me out. I am not saying that this is not critical, but I am saying, is it of sufficient moment to bring to the floor of the Parliament? And this is my only point that I would like to make for this rather lengthy piece of legislation, and I ask the Minister, in his winding up, to give us his thoughts as to whether and how he will consider this for us going forward.

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

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

**Sen. Avinash Singh:** Thank you, Mr. President, for this very brief and short contribution I am about to enter in this debate, that deals with this Bill. Mr. President, firstly, I would join my colleagues on this side and say that the intention of this Bill is that of a noble one, and with all things being positive, the general intention, there must be some short or some brief ramifications in terms of the legal aspects of this Bill.

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I would like to touch on four very short aspects of this Bill, the first one being the licensing committee, or the constitution of the licensing committee. The present law as it stands, Mr. President, includes a magistrate, and what we are saying now is that we are going to take the magistrate out of this committee. And, yes, it is very noble, indeed, and seeing that we already have a backlog of cases, this is most definitely needed at this time to deal with some of the constitutional aspects and some of the law situations that we currently have.

I turn your attention to the fact that in terms of the constitution of this committee where we are going to put individuals to constitute this committee, I believe my colleagues here would have brought it up earlier, that it is not balanced. In fact, we have the representation of a business community, and I believe that we really need to have the views and opinions of the resident or the community representative at that level. [Desk thumping] Only to say, Mr. President, we as a nation, have been faced by many occasions and situations in the past where residents have had the cause to go to, you know, the court, to seek clarification or, you know, to deal with grievances that they would have had for noise pollution, litter pollution, even the fact that people, you know, would go and park in front their gates and so on, similar concerns that the hon. Minister would have raised in his contribution.

I would like to take it a little bit further and to say that together with that, we need to have some sort of zoning of these specific areas, only because, I mean, [Desk thumping] as a young man, I have intentions of starting a family very soon— [Interruption]

**Hon. Senators:** What! [Laughter and desk thumping]

**Sen. Ramlogan SC:** Shamfa! [Laughter and crosstalk]

**Sen. A. Singh:**—and probably a good traditional three-day Hindu wedding, and, of course, everyone will be invited. [Laughter and crosstalk]

**Hon. Member:** Sweet potato.

**Sen. A. Singh:** Sweet potato for all. Only to say, Mr. President, that I am very concerned that while I am here, if God spare and if all things work out well in the PNM's favour in the future—[Interruption]

**Sen. Ramlogan SC:** “Yuh was going good, yuh know.” [Laughter]

**Sen. A. Singh:**—that I would like to be assured that, you know, my children or—I am pre-jumping here, but my children, in fact, are home safely and uninterrupted [Desk thumping] by noise pollution. And many times it is always associated

where influential substances are consumed that those consuming them utter words of that nature that are very negative in terms of how the small ones perceive. Because growing up in a society, a very rural community—Felicity, in fact—there are many bars. Every single junction, every single corner, anywhere you turn, there is a bar.

**Hon. Senator:** More bars than you got votes. [*Laughter*]

**Sen. A. Singh:** Maybe we will see how many votes you get, Sen. Hadeed. [*Desk thumping and crosstalk*]

But, Mr. President, this is to say that the current situation—and I am talking about the rural communities, for example, Felicity where there are bars almost next door to schools, next door to religious institutions, you know. So my point is that all of these situations are existing problems in the society and we need to have some sort of remedy or enforcement to try to curb these effects in terms of the young ones growing up being exposed to that type of situation, [*Desk thumping*] where people consume the intoxicating substance and it interferes with their vocabulary; it interferes with their minds and they use four-letter words and so on, that really and truly are problematic for that young one growing up.

So I am very concerned that, not only my children would like to be, you know, growing up in a society where they have proper exposure and they turn out into society with good manners and so on, but I would also like to know that my grandmother would be able to rest safely. And we all know on New Year's occasion and even Divali celebrations, the noise pollution as it relates to that kind of effects it would have on the old people and my grandparents and so on.

But that is to say that bars and nightclubs and all these sorts of activities also cause similar problems for the older and the elder and even the animals as well. So I would like to see proper zoning in terms of how we enforce, or how the licensing committee is really geared towards issuing licences by taking into consideration all the various aspects I would have mentioned earlier. I do not know if the EMA would be part of the licensing committee, but I think that they should have been, really to deal with part of the problems that the liquor licence would cause.

Another issue I would have had with the constitution of the licensing committee Mr. President, is the tenure of the members that make up the committee. I mean, the Bill is here and there is insufficient information as to what the tenure of these people would be or how long they would have to serve and all these sorts of things and if one should be found guilty of some sort of action—and I am coming to that where it comes to the operational structure of the licensing committee.

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Mr. President, when you go through this country, you would always find yourself in a position to talk to the poorer-type people, the rich-type people, everybody. As a matter of fact; everybody in society, and when you talk to many of the small bar owners and so on, there is a similar situation where these people have their licences renewed only on the merit that they would have passed something, only on the merit that they would have contributed to some activity that we would, you know, perceive it to be illegal. And by this I say bribery or corruption; the fact that some of these individuals have to give a favour just to have their licences renewed.

So that is exactly to tie into the fact that with the constitution of the committee, proper rules and regulations have to be placed for this committee to operate, so that if they, the committee itself, should be found guilty of any of these actions: bribery or, you know, they would be held accountable in society. [*Desk thumping*] So that the perception is that this appointed or elected committee would be operating with transparency, accountability and integrity, similarly like the People's National Movement. That is how we operate. [*Desk thumping*]

So, Mr. President, moving further, although the intention of this Bill is really to free up the magistrate system and give the magistrates that authority to use their time more wisely in terms of more serious crimes and so on, to deal with that backlog and so on, it bears me to raise the issue of one of the promises that this People's Partnership Government would have made, and I think my very learned colleague, Sen. Al-Rawi, would have mentioned the reform of the justice system and the justice facilities that should have been in place by now, and I will give you one example.

In Chaguanas, there is the Magistrates' Court. There is no parking. It is like a suffocating box in the middle of the town. It is a rathole. I would like to call it a rathole because it is a total disrespect in our democracy, Mr. President. I know Chaguanas was one of the areas promised to have a judicial complex, so I would like some sort of answer as to when or how soon we can have that [*Desk thumping*] in terms of dealing with some of the issues in Chaguanas because Chaguanas is a growing sector now, a growing economy. It has a number of opportunities for the business community and the residential community. So I would like to see some sort of justification as to why the judicial complex is not built yet or how soon we can look forward to that. [*Desk thumping and crosstalk*]

Mr. President, I turn your attention to the registration of clubs, and this is always a burning issue, and like any young person, I am very confused in terms of whether this Government is supporting gambling or not. I am just issuing a



statement that we are stepping inside the gambling and, I mean, the registration of clubs, and it bears me to think that the Government is sending mixed signals, as to what is its position on gambling because in my opinion, gambling and what gambling does for society, is more negative than positive in terms of the social structure.

**4.15 p.m.**

Gambling causes many issues that we the people have to endure—many social issues, Mr. President: abuse, domestic violence, child abuse because a gambler having that urge to always be gambling, and you know, you win one time, you lose the second time, you win again. You always go to these casinos and so on, and I would like to see, as a young person, this industry regulated. If gambling is legal, regulate it. If it is not legal, enforce the law. [*Desk thumping*]

It is not just a problem to Trinidad and Tobago. It is a problem internationally because all these international developed and developing countries understand the need for regulation in that industry. It encourages individuals, single parents, single fathers, single mothers—it encourages people to go and be addicted to that type of behaviour—gambling—and it is really a detrimental factor to know that our society is heading down that pathway, where individuals find it more convenient to go and gamble rather than purchase books for their children for school or give their wives money to buy groceries or whatever it is. The fact is that it is a problem.

This is not whether it is a UNC thing, a PNM thing or an ILP thing. This is a country we are fighting for. It is a nation that we are about to see move into first-world status very soon—under a PNM government, of course—and as a young person, I would really like to see something put into place to have this industry well-groomed and well regulated so that there is sustainability in the economy and that people would not be forced to go into gambling [*Desk thumping*] and waste their money, waste their resources. As a matter of fact, I mean, in registration of clubs, yes, there are private members' clubs and so on, but the reality of it, Mr. President, is that it is open to John Public. Anybody could go once you are over the ages 18 or 21, I believe it is. So really, I would like to know the message in terms of what the Government is sending that relates to that aspect of gambling.

Mr. President, the Bill is very much in tune with modern-day society, and with all the ramifications and if everything goes well with the amendments that both the Independent and the Opposition are putting toward this Bill, I see this Bill really dealing with some of the issues that we have in society today and I

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commend the Government. The intention is good. The intention of the Bill is good. It just needs a little tweaking and merit will come out of this if properly enforced.

So, Mr. President, with those few observations and my opinions on this Bill, I thank you. [*Desk thumping*]

**Sen. Al-Rawi:** Well said.

**Mr. President:** Sen. Small.

**Sen. David Small:** Thank you, Mr. President. Thank you for the opportunity to make a contribution on this Bill. I want to preface my comments by saying that in reviewing the Bill and when I looked at the pre-existing legislation, I recognized that there was clearly a conscious effort by the sitting administrative to really try to understand some of the challenges that the administration system is facing, and I think that this Bill contains some very proactive actions in here to really try to free up the system in certain ways. I mean, no set of action will probably be perfect, but when I looked at it, I think that for me, my assessment is that a lot of effort went into it to try to free up the system and to try to make some things work better and, for that, I think that the Minister should be congratulated and commended. [*Desk thumping*]

I will certainly not be talking pass the tea break. [*Laughter*] So shocking. Just like several of my colleagues, Senators, I think that as we recognized when we were doing the debate on the Bail Bill, there were so many other matters that are facing the court that are so important and so urgent, and really having magistrates dealing—having many times in my former existence, I was a small promoter and I have had to go to the Magistrates' Court to get occasional licences and I could tell you, the hundreds of people in the Magistrates' Court and you are sitting there sweating, hoping to hear your name. It is really, really, really an unnecessarily painful—[*Interruption*]

**Sen. Al-Rawi:** Ask “Hurricane” about that.

**Sen. D. Small:** Well, my colleague Senator—[*Interruption*]

**Sen. George:** Yes, I know about that very much. [*Laughter*] Soo Pin Chow.

**Sen. D. Small:** Soo Pin Chow was the guy. We are exposing our age there, Senator. So in that way, I think that removing this workload from the magistrate will help in some way to ameliorate some of the challenges that the Judiciary is facing.

I also—it is a pet peeve of mine and I am very happy to see that the legislation includes issues to deal with public annoyance due to the excessive noise and nuisance. I really think that this is something that has been long in coming, long overdue. People have complained about it, ad infinitum in various areas, and I think that it is something that sometime in the future we really need to look at and understand.

Colleague Sen. Singh mentioned about zoning, and for the future we have to really look at setting minimum distances from schools and places of worship. So I think that is something that we really need to look at, that you have as it is now because of the lapses in the planning system, people have legal establishments and they are fine, but they infringe on people's private space and enjoyment of property. So, it is really an issue and it is difficult now, probably impossible to tell them to move, but at least for the future when people are coming—So I think that is something that we need to look at.

I also thought about—it is a crazy thought in my mind because you know you have a licensing system and everybody wants to pay one fee. You know, the Minister of Energy and Energy Affairs will tell you that if you own a gas station there is a tier for the fees depending on the volume that goes through. The licence fee changes depending on the volume of product that flows through the particular station. So just for your thought, that you know someone may have a neighbour corner bar and then a guy may have a big club. They are doing vastly different volumes of business, but they are paying the same fee. So that, I do not think—that could probably be something that you could look at.

The Minister of Energy and Energy Affairs will tell you that gas stations up to one million litres a year you pay one licence fee, and if you go between one and two million you pay another fee, and between two and four million you pay a higher fee. So the licensing regime takes into consideration the fact that we are in the same business but some sell small, medium and large, and there should be some differentiation in the licensing regime in the price that you pay for the actual licence.

I have one other point that I want to make and it kind of piggybacks on the AG's one strike, two strike, three strike, the process that we went through with the Bail amendment. I think that we need to try to put or think about in the legislation: How do you deal with repeat offenders? Someone comes to you and say, "Listen, he has been fined once for selling alcohol to underaged children and he is fined \$1,000 or whatever it is." Okay, fine, and then he does it again, \$1,000; and then he does it again. There needs to be some incremental increase in the

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penalty so that it could be, let us say for the first offence and then the second time is doubled or tripled or whatever. I think that is something that we should think about to really put a deterrent in there.

I agree with my colleague, Senators, that the fines as they are, are kind of small and they could probably use an increase, but you need to put a deterrent. I think the fine as it is now is not enough of a deterrent. I think people need to understand you do it once, there is one level of penalty and if you repeat and you are fined again, the fine is going to be that much higher. I think this is something that I would like the Minister to consider when we are doing the final wrap up this afternoon.

So, I did not want to occupy too much time and I think that captures most of my comments, and in general I think that this is a Bill that I am willing to support and I thank you for the opportunity to speak, Mr. President.

Thank you. [*Desk thumping*]

**Mr. President:** Sen. Cudjoe

**Sen. Shamfa Cudjoe:** Thank you, Mr. President, for the opportunity to make a contribution on this legislation. I just have one point I wish to make and that is relating to—[*A Senator thumps the desk*] Oh, I could take my 45 minutes, you know, Sen. Maharaj. So please, do not tempt me. So, Mr. President, the point I want to raise is on section 61 of the parent legislation and what we are dealing with here in the amendment as clause 2(w), that is relating to amending section 61 which treats with selling alcohol to somebody who is apparently intoxicated.

Now, Mr. President, alcohol-related incidents are among the leading causes of death of young people and of our citizens in Trinidad and Tobago. I checked the statistics and last year we had about 151 deaths of citizens to road fatalities, and the year before 190. Mr. President, but most times we experience road fatalities blame is being tossed to the irresponsible driver, the careless friends, the worthless parents, and very seldom do we attribute blame or responsibility to the bar owner, to the mixer, to the waitress or the person who would have sold drink to a highly intoxicated person on payday.

Bar owners look forward to payday to just keep pouring drinks in the glasses because people are willing to spend the money without paying any attention to whether or not this person is able to hold up, whether or not this person is able to drive home. I believe, Mr. President, that people who are able to obtain a bar licence or work in the industry that is responsible for selling alcoholic beverages, they need to understand that they hold a tremendous responsibility as it relates to public safety, and I think that when you abdicate that responsibility it should be met with serious penalty.

So I have had the chance to review some of the legislations in many of the United States, and I remember Washington DC has legislation where after that person would have left the bar and an accident happened down the road, the liability is placed on the person who would have sold the drink also, or keep selling drinks to that apparently intoxicated person. Legislation has gotten so stringent in the United States to the point that the bar owner could be sued and the employees could be fired for continuing to sell alcoholic beverages to an already intoxicated person.

Now what we have done with this amendment, today, we have increased the penalty from \$400 to \$1,000 and I am concerned about that, because I think we should take into account and we should consider the same kind of measure that was implemented in the previous section, section 60, that treats with a one-strike, two-strike, three-strike system where on your second or third strike for selling to a minor your licence could be suspended. I think the same thing should apply. A two-strike, three-strike measure should be applied to section 61 that treats with selling to an apparently intoxicated person, or a more stringent measure, but from \$400 to \$1,000, I do not think it is a good enough deterrent.

I have one recommendation. This is also something that is practised in Washington DC where bar owners when they are issued their licences and when their licences are updated, they are given a handbook that is supposed to guide them in training employees as to how to check the IDs and what to look for, how to identify an apparently drunk or intoxicated person as it relates to slurred speech, mismanagement of money, arrogance and quick to start a fight and that kind of thing. So, if we could go on a public education project or initiative as it relates to educating the bar owners and the waitresses and the people that work in this kind of industry, and also informing people or the general public as to their responsibility as it relates to drinking and driving and upholding proper public safety.

So with those few words, Mr. President, and just in time for tea break, I thank you. [*Desk thumping*]

**Mr. President:** Hon. Senators, it is now 4.29.35. I propose to take the tea break at this point and to suspend this sitting until 5.00 p.m. when we will be back here to continue the debate.

**4.29 p.m.:** *Sitting suspended.*

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

**Mr. President:** Hon. Senators, before we broke for tea, we were in the debate on the question of the Bill before this House, relating to a number of pieces of legislation, and we will be continuing that debate, so that Senators now willing to join the debate, may do so. Sen. Dr. Edwards. [*Desk thumping*]

**Sen. Dr. Aysha Edwards:** Thank you, Mr. President. It was not my intent to be a part of the debate. However, I heard something that, I guess, enlightened or struck me as a curious comment, and that was the reason I decided to join the debate. First, I really do agree with the legislation. I think it is good amendment. It is the Government's attempt at curbing a problem that we have. I think that the fines are a little bit too low. I will agree with that.

However, before we went to the tea break, Sen. Cudjoe made some interesting points, and it is on that line that I wanted to join the debate to give a different perspective, because Sen. Cudjoe spoke about DC and how the laws in DC can be applied where bar owners and business owners and waitresses can be fined for patrons who are intoxicated—leaving institutions intoxicated.

I want us to consider some things: One, if you are telling me that you want to card minors, so a minor who enters an establishment is carded so that person is not served alcohol, I agree. And then businesses that then serve alcohol to minors who have been carded, I agree. Because they do that in the US. If you enter an establishment, any business establishment that sells alcohol, you are asked to show your ID, and based on your age, you are carded. So if you are under 21, you are given a card, which means you cannot get any alcoholic beverages. And any institution or establishment that breaks that law, can be fined. But to charge a bar owner or a club owner for patrons leaving intoxicated is a bit farfetched.

One, everyone reacts to alcohol differently. And in Trinidad and Tobago—first thing, in the US. you cannot drink alcohol in the streets. I have lived in a couple states in the US. I do not drink alcohol, but for my friends who drank alcohol, it had to be in a brown paper bag. And the police can pull you over to see what is in the said brown paper bag.

In Trinidad and Tobago we are walking bars. You pull over somebody and you pop their trunk, they have a cooler, they have ice, they have Johnny, they have coconut water, and they are ready to go; worse yet now during Carnival time. People drink before getting to the fete; they drink while at the fete, and they drink when they are leaving.

**Sen. George:** They have a beer in their hand when they are leaving.

**Sen. Dr. A. Edwards:** Yes.

**Sen. George:** A “fella” driving with a beer in his hand.

**Sen. Dr. A. Edwards:** Exactly. If you go on Ariapita Avenue on a Friday, Saturday or Sunday, it is lined with young people. Which establishment are they in? Can you then pinpoint which bar they are in to charge that bar owner for drinking? Because many of them have their coolers and they are drinking right on the side of the road. [*Desk thumping*]

So if, God forbid, you have legitimate business in that area of Port of Spain, you cannot get a park. If you live there, you cannot get in your house. If you are in your house, you cannot get out. So you have to make up your mind either I am going to be out for the night, or I am coming in late, or I am staying in, because they block the gate; you cannot get out; you cannot get in. If you have an emergency you are stuck. And to then say that a waitress should be held responsible for someone’s drinking is a bit harsh.

Because I had an experience two weeks ago, where I had a patient who came in with a huge scar on her thigh, because she works at a popular institution at Ariapita Avenue, and she attempted to close off a gentleman’s tab, and he said, “I am paying for my drinks.” And she said, “But, Sir, I think you had enough.” At which point in time, he broke a bottle and he sliced her leg.

Are you putting people at that to say, well now, I am going to tell you when you should stop? I mean, there has to come a point in Trinidad and Tobago where people have to take personal responsibility. [*Desk thumping*] If you know you can only drink two beers, only have two beers. If you know that you cannot drink, do not drink. We keep trying to put laws in place for personal responsibility. People have to be responsible for their own actions. So bar owners and club owners should not be fined or held responsible for that, because it is hard to look at someone and say if they are drunk. For all you know, “I drunk”. You understand what I mean? [*Desk thumping, laughter*] And I do not drink alcohol. You cannot say.

There are people, two days later they are smelling of alcohol; they are sweating out all the Johnny they drank over the weekend. There are people who are going to fete, after fete, after fete, after fete, and that alcohol—I mean, come on! It is a bit rough to put that kind of fine on a business owner. If you say have them card minors to prevent minors from drinking, yes. But to then say that they are responsible for the people coming out of their establishment? In Trinidad and Tobago you go to one bar, then you jump to the second, the third, the fourth. At

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the fifth one, you might only have coconut water, and you step out my bar, which is the fifth, and the police pick you up; I am supposed to be charged for that? I mean, come on! Thank you, Mr. President.

**Hon. Senator:** Very good point. [*Desk thumping*]

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

**The Attorney General (Sen. The Hon. Anand Ramlogan SC):** Thank you very much, Mr. President. Mr. President, 20 years ago, in 1992—over 20 years ago—there was a report known as the Gurley Report into the Administration of Justice, and this is what Mr. Dennis Gurley, now senior counsel, had to say. Under “Licensing Applications”, the report said:

“Applications for licences fall in two categories, namely, (1), new licences, and (2), renewal of licences. Both types of licences are granted by a Licensing Committee, which is chaired by a magistrate. The Committee sits at 9.00 a.m. on the days set aside for the hearing of the applications. The procedure of hearing applications necessitates the appearance of the Applicant in Court, and at times he is represented by an Attorney-at-Law. If there are objections to the application, the magistrate will entertain the objections and then determine whether the licence will be granted or refused. In the vast majority of cases”—we observed—“there were no objection”.

Under “Recommendations” in respect of this issue, the Gurley Committee had this to say:

That the Magistrate and the Committee grant licences, to which there is no objection, by a mere administrative act. That this can be done in Chambers. In cases where there are objections, the licence applications should be listed and heard in open Court.

Appropriate amendment will be required to the Liquor Licensing Act, Chap. 84:10 and to the Legislation...to other licences.

That was, Mr. President, over 20 years ago. [*Desk thumping*]

Thirteen years ago I served as counsel to a Commission of Enquiry chaired by Lord Mackay of Clashfern and at that Commission of Enquiry, this issue reared its ugly head again. Lord Mackay, in his report, had this to say, and I quote:

At certain times of the year there are many applications for liquor licences which are dealt with by the Liquor Licensing Committee, chaired by a magistrate. Unnecessary appearances are caused where applications are not opposed; for example, for checking whether the fire or other necessary approval has been given.



It seems to us that the unopposed applications could be granted without appearance, thus saving the magistrate's time. If the burden of opposed licence applications is significant, a licensing tribunal, without any involvement of the magistrate, may be appropriate to deal with the case. If they continue to be heard by a tribunal, chaired by a magistrate, they should be heard and determined in public, as they are at present.

Mr. President, 21 years ago, and then 13 years ago. And despite the passage of 22 years, since the Gurley Report was commissioned, it took this country, a People's Partnership Government, 22 years [*Desk thumping*] to come to effect this change in law. For 22 years that recommendation sat on the shelf gathering dust. And I, therefore, wish to start by commending my colleague, the hon. Minister of Legal Affairs, Mr. Prakash Ramadhar, for having the foresight to bring this amendment, which, though simple, is by no means insignificant, because of what it represents to the administration of justice. [*Desk thumping*]

And I know that in bringing this amendment, it is born out of the years of personal professional experience in representing people at all levels in the court system, and in particular at the Magistrates' Court, where you would have experienced the very circumstances described by my colleague, Sen. Vieira. I mean, we can all empathize and identify with those experiences, because, really, that is what it boils down to. You go there, as Sen. Small says; you are waiting for your name to get called, and you sit there wondering what would happen. But businessmen have been complaining in this country for a very long time, that they go there sweating and waiting all day long, waiting for the entire day, and they cannot get relief in time.

Now, a lot has been said about the positive impact of this change with respect to the obvious freeing of magistrates' time. There are some concerns and issues raised by some members on the Opposition Bench, and I will treat with them to show that this legislation deserves our unanimous and full support, and that it addresses, in no small way, the legacy from the past in a matter that really ought to have been dealt with before.

Mr. President, the first question had to do with the sale of alcohol to minors. In that case, concerning the sale of alcohol to minors, I believe Sen. Al-Rawi indicated that the Government was removing a jail term which existed, and he was, therefore, concerned that we would now be sending a wrong signal, as it were, to the population, about the sale of alcohol to minors. I want to say for the record, this Government is extremely concerned about the protection, safety and welfare of children and minors. And, therefore, we would have thought very long

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and hard about such a decision, if it were true. But permit me to say for the record, that Sen. Al-Rawi inadvertently misled this Senate when he suggested that the Government was removing the jail term for this offence.

The offence, Mr. President, is, in fact, contained in section 60 of the Liquor Licences Act. And section 60 which deals with this matter in the Liquor Licences Act, does not, in fact, speak to a jail term at all. The law has always been that it is just a question of a tiered approach to fines. In fact, if I may be permitted to refer to it, it says:

“(1) A person who knowingly sells or allows another person to sell intoxicating liquor to a child under the age of eighteen years, whether for the child’s own use or not, commits an offence and is liable on summary conviction for a first offence to a fine of two thousand dollars, and in the case of a second offence to a fine of five thousand dollars, and in the case of a third or subsequent offence to a fine of seven thousand five hundred dollars.”

So there was never any jail term, hence we could not have removed what did not exist at all.

I did, however, listen attentively to Sen. Small’s contribution, and he made a very telling point when he said, well, look, you know, if a man gets caught once selling alcohol to a minor, then there must be some graded scale that should apply. And we do, in fact, take on board that this is a problem in our society, and one which we feel must be addressed with a very firm hand, and we think that the legislature has a responsibility to send a very strong, a very powerful and a very definite message to people who sell alcohol to minors. [*Desk thumping*] And in that regard, Mr. President, I am very pleased to say, after consulting with my colleague, the hon. Minister of Legal Affairs, that we have agreed to amend section 60. We are not only going to increase the fine, but we are going to, in fact, insert two jail terms. Because if you sell liquor to a minor on the first time you get caught, we are increasing the present fine from \$2,000 to \$7,500. That is for the first time offence; one strike. Two strikes, we are increasing it from \$5,000 to \$10,000 and a term of imprisonment for one year. Three strikes, we increase the fine from \$7,500, we double it to \$15,000, and to a term of imprisonment of two years.

So that if on the first occasion when you get one strike and you are out, if after that you do not know to ask people’s children for their ID cards before you sell them alcohol, well then you will pay the price. You will pay the price. And no one should have sympathy for you, because alcohol can have a very deleterious, a very destructive effect on a young person. And it is being gently introduced as part of our social culture, because it is no longer cool to not take a drink.

I heard my colleague, Dr. Aysha Edwards, in her rather brilliant contribution a little while ago, make the point that, you know, people have to take personal responsibility. And she mentioned during the course of that, her experiences living in the United States of America, in several states, and the fact that, you know, her friends, when she goes out there, if they have to take a drink, it is out of a brown paper bag, because you cannot drink openly in the streets in certain states in America. And she mentioned in the course that—you do not drink? You still do not? I was going to offer to take her out for Valentine's, but I guess I will have to do a change of venue. [Laughter]

But you see, Mr. President, the short point is, she has taken a personal responsibility and a personal stance as a young doctor, worthy of emulation; and she has no difficulty saying that for the public. [Desk thumping] And I want to compliment her on that. I want to commend her on that, because we have reached a stage in our country where it is considered fashionable, socially acceptable, cultured and fashionable to have a drink in your hand. And if by chance you are liming—I do not drink. And I know from time to time whenever I am in company with friends liming, they ask, “Wey yuh drinking dey?” And when they realize it is soda water or coconut water, they snicker and they laugh, and they ridicule, you know, it really—you know, you really have to brush it aside. I might take an odd glass of Champagne or wine or something. But I do not drink, generally. So, that is why I said, Sen. Edwards, and I will, perhaps, have a meeting on Friday for Valentine's for non-alcoholic beverages.

But the short point is that we must not be afraid to say that this is our position and this is our personal stance on these matters. It is not something that should be swept under the carpet, “as if yuh shame tuh say yuh doh drink”. You should be proud to say it. And I want to commend the Senator for being bold enough to make that statement here today, and send a message to the youths.

So, we make no apology as a Government, for sending a very strong message to the bar owners and the groceries, and so on, that selling liquor to children, that one strike, you will be liable for \$7,500 fine; two strikes, \$10,000 and a term of imprisonment for one year and three strikes, \$15,000 and two years' imprisonment. And that is going to be the position, and we will circulate an amendment to that effect.

Now, Sen. Al-Rawi mentioned about the Bill not having defined the Minister, and he said: “Well yuh doh know who de correct Minister is. Maybe it should be the Minister of Finance;” “as if de poor man doh have enough wuk aready.” He says, it could not be the Minister of Legal Affairs, and so on. Now, the reality is

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“Minister” is not even defined in the present Act, and the reason for that, I suspect, is because there has never been any potential for confusion about who the Minister is. I mean, the Minister, in dealing with these amendments, quite frankly, does not have any role to play in the granting or the renewal of the licences, whether it is for liquor or otherwise, as the case may be. They are not a party to that process. So I do not see why the need to define who the relevant Minister is, for the purpose of the licensing process, is a point that has any merit. [*Desk thumping*]

**Hon. Senator:** Good point. Good point.

**Sen. The Hon. A. Ramlogan SC:** Another point made by Sen. Al-Rawi had to do with the number of Clerks of the Peace. And he said, well, you know, we do not have enough clerks, and so on. Mr. President, permit me to say for the record, that that is misleading, because the Clerk of the Peace already serves as a member of the Liquor Licensing Committee. What we are doing is elevating that person from a mere member *simpliciter* to the position of chairman. So that the question of whether you have enough clerks just does not arise because they were already a member of the committee all this time. So that really does not arise for discussion.

The other point raised was with respect to the conflict of interest provision in the law. He said he did not like the use of the words “or any other person”. Now, Mr. President, the section that deals with conflict of interest was, in fact, copied from the Integrity in Public Life Act, section 29—[*Interruption*] Yes, Sen. Vieira. Thank you very much. And it is on par. And section 29(1) of the Integrity in Public Life Act speaks, really, to holding office and making a decision:

“...and at the same time knows or ought reasonably to have known, that in the making of the decision, there is an opportunity either directly or indirectly to further his private interests or that of a member of his family or of any other person.”

The words that appeared to have troubled the goodly Senator “or of any other person”, I dare say ought not to trouble him at all.

You see, one would have thought that the Government should be commended and the Hon. Minister of Legal Affairs should be complimented for taking such a broad approach to the thing, because in the same breath, the conflict in the Opposition revealed itself when Sen. Baldeo-Chadeesingh said that, “You know, well this committee could now be more susceptible to corruption, because it is a Clerk of the Peace and not the magistrate that would be chairing it. I mean, on the one hand you are talking about a fear of corruption; on the other hand the other

one is saying, “Well the conflict of interest provision is drafted too wide.” The reason you will have a wide conflict of interest provision its to prevent corruption, because you would want people who have conflicts of interest—potential, real and imagined, as the case may be—to be disclosed.

And why do we use the words “or of any other person”? It is because if you take a restrictive approach to the statutory construction of such conflict of interest provisions, Mr. President, what would happen is that the net will only—it will leave out too much; the catchment area is too small.

So take for example, you are serving on a liquor licensing committee and we restrict this to, you know, your spouse or your brothers and sisters, and so on, but your boyfriend applies for a licence. You may not, looking at the law, think that you have to disclose that you have a conflict of interest, because we pigeonhole people to conflict of interest that is pegged based on “yuh mudda, yuh fadda, yuh brother, yuh sister or your spouse or yuh children” as the case may be. I think the Government stands very firm on saying that by making it wider and taking a more expansionist approach to the conflict of interest provision we are, in fact, acting consistently with international best practice in the making of modern legislation that addresses the question of integrity—Integrity in Public Life Act. [*Desk thumping*]

You see, you would notice that he did not criticize that provision in the Integrity in Public Life Act, because he probably did not know it came from there. But now that he knows it is from there, you know—he is not here.

Whenever I am not here, Sen. Al-Rawi makes a point about pointing out, “And the Attorney General who is not here.” Today I will not say that Sen. Al-Rawi, who is not here and absent to listen to all these corrections.

You see, the other point he raised that was of no value, had to deal with the question of the right to due process under the Constitution, and the issue of evidence on oath. I think he bemoaned the fact that we are removing, consequentially, the requirement for evidence to be taken under oath, and I think he misunderstands the new procedure that we are implementing. The procedure is very simple. Rather than have a magistrate deal with this thing like it is a court case, what we are doing—and the magistrate has to actually visit the premises. Imagine magistrates have to go and visit premises and check out stock room, room 1, room 2; “go and check de urinal to see what going on over there; if tile missing; if plumbing wuking. Ah mean, ah magistrate?” I mean, you know, it is really ridiculous. It is absurd. And to think that we allowed that situation to continue for over 20 years since the Gurley Report, it does not say much.

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But the reality is this—what we are doing is this; when you go to the relevant state agencies to get your approvals, they are the ones who will come, as public officers: the public health inspector, the people from Town and Country Planning, the fire service—who again?—Customs and Excise. I mean, I am privileged to be sitting next to a distinguished former CEO of the San Fernando City Corporation, who knows about—and who happened to have also been a former client of mine.

You have these public officers; they go. The Customs and Excise Division; they will send someone. Town and Country Planning sends someone. The Fire Service sends someone. Public Health Inspector—the Public Health Department; the police. So all these public officers who are charged with the executive day-to-day discretion in law, they go. And when “dem” check out everything and they give their approvals, after that you go before a magistrate and the magistrate now has to go and review “all ah dem work like is homework and ah school teacher.” It makes no sense. So what we are saying—and then that is where the evidence on oath comes into play. “Man hah tuh go in witness box and give all kinda foolish evidence on the thing.”

What we are saying now is forget “bout all dat”. After you get all your approvals from the health, fire, police, Customs and Excise, Town and Country Planning, when you get all those approvals, you submit them to the clerk. The clerk will convene the Liquor Licensing Committee. They will sit, and once there is no objection, they will simply grant the licence. In fact, we have gone so far in making user-friendly legislation; the People’s Partnership administration has gone so far, we are saying that “de man doh even have tuh come to court at all.” [*Desk thumping*]

If there is no objection when you have gotten all your approvals, you do not have to come to court. And that is why when Sen. Small spoke about sitting for the entire day in court waiting for your name to be called, the magistrates have their lists to go through; it is chaotic. “And dey calling yuh name loud, loud. Yuh understand? You hah tuh run. Sometimes, yuh know, yuh just step out tuh do something, and dey calling yuh name. By the time yuh run dey done adjourn it.”

So, in those circumstances what we have done is to say you will submit your approvals and as an administrative act, you will get your licence. If there is an objection however, the parties, consistent with alternative dispute resolution techniques and philosophy, will try to have a mediated resolution to the matter. But if the parties cannot come to an amicable settlement, then what happens is they will refer the matter to the magistrate, and when the magistrate sits, he sits in his capacity as a magistrate, as a judicial officer, and then evidence will be taken

on oath. It is at that stage that the evidence is taken on oath. We have not done anything to interfere with or remove those provisions. That remains an essential part of the procedure.

So to talk about due process and “you taking away due process, and you taking away rights,” and so on, I mean with the greatest of respect to my colleague, it is really a massive red herring. It does not arise because there is no question of due process at the stage when you are appearing before, because there is no need for an appearance. If there is no objection, you get it once you have your approvals, and if there is an objection you try to have a mediated solution. So I want to make it abundantly clear, there is no question of any interference with the due process, in terms of getting a liquor licence.

The other one here he spoke about was the issue of the representation of the residents, and the objections in writing. Well, we have dealt with that. There is an amendment which we had circulated before, that addresses that question, where you can, in fact, make your objection in writing.

Now, he raised another point about, well which business organization will be represented? I mean, those are matters that the practical administration of the law will take care of. I have no doubt that, you know, if you are in San Fernando, the San Fernando Chamber of Industry and Commerce, Tunapuna Chamber; in most areas we have that. Alternatively we will have some prominent business person or organization that will fill the gap.

With respect to the talk about the pawnbrokers and the jewellers, and so on, and that the magistrate should maintain some role in the grant of that licence, “he say he want de magistrate tuh look dem in dey eye.”

**Sen. Coudray:** “Dey feel is P-O-R-N or what? Is P-A-W-N. [*Laughter*]

**Hon. Senators:** He not here to look you in the eye.

**Sen. The Hon. A. Ramlogan SC:** “I want tuh look him in de eye, and I ain want tuh see no yampee and ting, but I want tuh look him in he eye.” But the point is, I want to say that—Mr. President, the requirements to get these licences, we have not changed what is required to get the licence. And the review and inspection part of the procedure; that remains the same. And it is objectively judged by the public officers who serve in all of the various agencies of the State that are required to go and check and inspect, and so on. So I do not know that having the magistrate and raising all sorts of tangential issues about the FIU and proceeds of crime, I mean, you know, that is really going all over the place, and taking us out of where we should be with dealing with a very simple Bill.

The idea that this is somehow a lowering of the bar, it is nonsensical. That is not lowering of the bar. The criteria remain the same. The procedure remains the same except that the magistrate is now the last resort, rather than the first resort.

Sen. Diane Baldeo-Chadeesingh, who is also not here, made the point that the Clerk of the Peace—she said the Clerk of the Peace, the process could be corrupted. Now, the Clerk of the Peace grants bail at present. So that, I mean, the possibility of corruption, one would have thought, would be, you know, even stronger in a case where a man exercises the power to grant bail. And that has always been the case. So I do not see that the concern voiced about having the system corrupted, because you could get bail—sorry. You no longer have the magistrate as an oversight. I do not think that is really a relevant consideration, Mr. President.

Now, I think the other point that was raised had to do with the recent call by members of the public to address the whole question of alcohol sale, and then coming back to the point with the minors. I just wanted to say, Mr. President, that in the Schedule 3 of the Children Act, 2012, there is, in fact, another provision to deal with this, and that is adding new section 60A to the Liquor Licensing Act:

“A person who uses or causes a child to be used, or hires a child including as a courier, in order to sell, buy or deliver alcohol commits an offence and is liable ... to a fine of two thousand dollars and to imprisonment for twelve months.”

But that is really where they are using the child to sell the liquor, as it were, or to deliver it, as the case may be. I think the provision we are putting today is much stronger and better.

If I may just take you briefly, Mr. President, through the amendments. I think my colleague, Minister Ramadhar, in piloting the Bill, did an excellent job of taking us through the relevant clauses. The ones that are circulated will be the following. We have the one where there is no objection, and you can have the renewal or issuance of the licence without requiring the applicant to attend before the committee. We have the possibility, in section 21(1), to object in writing to the grant or renewal of a licence or the transfer of same, and they shall be heard by the committee. We have the fines, which are the last circulated amendment, and the term of imprisonment, with the one strike, two-strike and three-strike rule, which I have just outlined, and those are, in fact, the main amendments that have been circulated.

Mr. President, this matter is one that is 22 years in the making and 22 years overdue. It is an indictment that we would have waited this long. But the Government's commitment to improving the administration of justice is deeply



entrenched and well established, and it is reflected in no better way than to just simply glance at the budget—the budgetary allocation under the People’s Partnership administration for the administration of justice.

Mr. President, in the year 2009, the budgetary allocation to the Judiciary was \$274.4 million.

**Hon. Senator:** That is US or TT?

**Sen. The Hon. A. Ramlogan SC:** TT. In 2010—so that is what the PNM gave the Judiciary in 2009; \$274.4 million dollars. In 2010, \$339.6 million; 2011, the People’s Partnership, \$364 million [*Desk thumping*], and in 2012, we upped that figure further to \$366.7 million. That is the commitment to the administration of justice by this administration. [*Desk thumping*]

And when I hear Senators criticize the administration of justice and ask, well, you know, what is my colleague, the Minister of Justice, doing about building courts, and so on? You know, they speak so glibly about it, as if to think that, you know, for the past—the PNM has ruled this country for almost half a century, and in that half a century they cannot point to anything and say, “Well look, this is what we did. We built a new court; we built this.” But they come now and they—you know, whilst we are opening the Chancery Lane Teaching Hospital, the first hospital to be built in almost two decades, whilst we are doing that with three years in office, they come now to tell us, “You are not building any courts,” knowing full well that the system we have inherited is not one you can unravel overnight. What they did not do in 50 years, they expect the People’s Partnership to do it in three years.

**Sen. George:** That is right. [*Desk thumping*]

**Sen. The Hon. A. Ramlogan SC:** It is unrealistic. Let me tell you, Mr. President—since the matter was raised and traversed so extensively by some of my colleagues—some of the measures being taken to improve the administration of justice. Mr. President, the Drug Treatment Court Pilot Project is a modern approach to dealing with the question of persons who are drug addicts and commit criminal offences, because the crime is really the symptom of a different problem. The problem really is that they are addicted to some illegal drug. So what have we done? We launched a pilot project in 2012, in partnership with the Judiciary, with the Ministries of Health, National Security, Justice, the Office of the DPP, the National Alcohol and Drug Prevention Programme, Legal Aid and, of course, the Organization of American States. The whole point there is to prevent recidivism by treating, not the symptom, but the root cause, by trying to rehabilitate the person, so that they will not go back and be the “little piper, snatching people’s slippers from outside their galleries, and going and sell them, and so on.

In some communities “yuh cyah put out yuh shoes and slippers and thing yuh know. Man gone wit it. Yuh know. Yuh hah tuh walk barefoot outside yuh house and put on yuh slippers inside yuh house. Yuh know, in some communities—” [Interruption] “Yeah; clothesline and thing, just now in some place it go be ah ting ah de past. Yuh hah tuh heng up clothes inside yuh house tuh dry. Yuh cyah heng up clothes outside again. Man gone wit all. Dey gone wit line too. So, you know, you have to treat with that kind of petty theft, because, really and truly, is because dey want tuh buy ah joint or dey want tuh buy ah rock,” as the case may be. So, we are very proud of the Drug Treatment Court Pilot Project that we have introduced, and we think that is an innovation in the administration of justice that augers well for the Judiciary.

In 2012, we also launched the Court Annexed Mediation and Judicial Settlement Pilot Project. This pilot project which deals with the concept of court mediation and judicial settlement, is one that tries to integrate mediation and judicial settlement conferencing as part of the alternative dispute resolution mechanisms for the court. So, to improve case-flow management, at an appropriate juncture in the case, you can refer it to a judicial settlement conference or for mediation. What that does is that—we are seeing now the benefits of that.

I personally had an experience with that, and it is in the G-Pan case. In the G-Pan case, you may recall, Mr. President, the State took legal action against Professor Brian Copeland and others, because we were trying to protect the patent in the PHI Pan, the Percussive Harmonic Instrument. And that being an invention, we thought that the taxpayers of this country had funded the research that went into the making of the PHI Pan. And we, in fact, discovered that we had funded it to the tune of over \$35 million, and yet there was a claim that the patent really belonged to Professor Copeland, as opposed to the country. And I craved objection to that as part of a Government that takes our cultural patrimony and heritage very seriously.

We launched litigation to seize and secure and protect our intellectual property rights in this investment, and the matter was referred to judicial settlement conferencing—to mediation. And after one week of mediation, we were able to settle that matter, and I am proud to say that I was able to get, for the people of Trinidad and Tobago, a one-third share in all royalties from the commercial exploitation of the PHI Pan. [Desk thumping] And the intellectual property rights and benefits are now divided up. It is split three ways. The University of the West Indies gets one-third, the Government of the Republic of

Trinidad and Tobago gets one-third, and Professor Copeland and company gets one-third. Had I not launched that case he would have gotten 100 per cent, and we would not have had a stake in it.

So when Sen. Al-Rawi asked the question, “Well, you know”—and he is very clever how he speaks you know, sometimes. He says \$300 billion or \$3 billion, the combined budget of the Ministry of Justice and the Ministry of the Attorney General. Three billion dollars? Three billion dollars? “I doh know if he talking about, yuh know, his bank account,” but that is not the case, as he fully well knows. The large majority of the budget you get in some ministries goes to pay recurrent expenditure—salaries and wages.

The second thing is that you may have projects that do not get off the ground, and when those projects do not get off the ground it is not that Sen. George takes the money; it goes back to the Consolidated Fund at the end of the financial year. So to speak glibly about it and say, “Well wey de money gone? Wey de money gone?” I mean, this is the season for it but “he ain no Lord Kitchener tuh ask wey de money gone.”

**Hon. Senator:** Ask Calder Hart.

**Sen. The Hon. A. Ramlogan SC:** Yeah, it might be more appropriate to ask other people that. But the reality is, “de money gone—I want tuh tell him dat de money gone in cases like the PHI Pan.” And if I did not file that case, this country would not have, and the region would not enjoy two-thirds of the intellectual property rights in that. [*Desk thumping*] And it has gone into many other cases, such as the failed world GTL Project, involving former Petrotrin Board. It has gone into suing Calder Hart and Krishna Bahadoorsingh, the former Chairman and Deputy Chairman of UDeCOTT. “That is wey de money gone.” It has gone into suing the former Board of UTT; the former Board of e Teck. It is over \$1 billion in compensation that we have sued for, and it is a drop in the bucket compared to what we have lost as a country; compared to what we have lost.

You know, Mr. President, as we speak here today, we have several international arbitrations that are taking place outside of Trinidad and Tobago, involving this country. And any one of them, if I do not—I stay up sometimes all night reading boxes of papers, micromanaging those arbitrations, because the impact, the financial ramifications and implications of them are so great for the economy and the people of this country, that I have to take a personal interest in them.

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I spend long hours on the phone with lawyers from London and New York, trying to manage these arbitrations. The GTL Arbitration, we won the first leg. We have a second arbitration. The failed Gas to Liquids Project; we inherited that. Imagine, it is a failed project and in light of the fiasco that it is, we now have to defend ourselves against an avalanche of litigations where people claiming, not one and \$2 million, you know, is billions of dollars, hundreds of millions of dollars. You know, you have to wonder if the economy would withstand the shock of those kinds of decisions against it. And then they come here, having set up the country like that, to ask “Well, yuh ain telling we wey de money gone. All yuh only spending it on legal disputes.”

Mr. President, the Family Court is another success story for the administration of justice. I am very pleased to say that we have, in fact, not only acquired the building—the St. Joseph Convent building in San Fernando—but we have already approved expenditure, so that we can, in fact, proceed to roll out the Family Court for San Fernando. [*Desk thumping*]

My learned friend spoke about the abolition of preliminary inquiries and he is not hearing anything about section 34 and the Bill, and so on. Well, “from now till all ah we dead, we go hear about section 34. That is like a mantra dey guru gih dem. Dey go chant it every day til dey dead.” But I want to say that I have—and, you know, he says it as if we have not said anything about it.

I have said time and again here that we are in the process of drafting a new Bill to abolish preliminary inquiries and I have said that we have opted for the simpler model of the Antiguan legislation to avoid some of the complexities and pitfalls that presented itself with the St. Lucian model that the former Minister of Justice had utilized. And that Bill, as we speak, there is stakeholder consultation, which is ongoing, with the Ministry of Justice, the Judiciary, the Office of the DPP, the Criminal Bar Association and the Law Association and we are consulting with them. And by the end of this month, I expect that that Bill will be before the LRC, and in the month of—before Easter it is my hope that I would be able to get the Leader of Government Business to table that Bill so that we can abolish preliminary inquiries.

So let us get past, you know, this fever pitch section 34 tone, because it is not going to take us anywhere. The fact of the matter is that matter has been dealt with. We have a ruling from the High Court. The Court of Appeal has reserved judgment and it is expected that hopefully they would deliver it shortly.

When we come now to the question of the Magistrates' Court, this Government is doing more to try and improve the Magistracy than any other. Mr. President, the San Fernando Magistrates' Court; we have approved funding for the completion of the San Fernando Magistrates' Court. We have approved funding for the Rio Claro Magistrates' Court, for its refurbishment and expansion. We have approved money for the Couva Magistrates' Court; all of these Magistrates' Courts.

I agree with my colleague, Sen. Avinash Singh, who made, perhaps, the best contribution from the Independent Bench today—and that is not because he spoke for the shortest.

**Hon. Senator:** Independent?

**Sen. The Hon. A. Ramlogan SC:** I want to congratulate Sen. Singh. He spoke extremely well. He spoke from a youth perspective, and he is growing in confidence. One day, I suspect, when the complexion issues fall apart, one day he could be the leader of the PNM. [*Desk thumping*]

**Sen. Cudjoe:** Mr. President, 35(1). And that is an improper motive that he is— [*Crosstalk*]

**Mr. President:** On 35(1), I take it that the Attorney General is not about to embark on, and it was just a passing remark. Attorney General.

**Sen. The Hon. A. Ramlogan SC:** Yes. I thank you, Mr. President. I do wish, however, out of deference to my colleague, I do wish to apologize for imputing improper motive of saying that a man like Sen. Avinash Singh can aspire to lead the People's National Movement. [*Desk thumping*]

In 2010, when I assumed office as Attorney General, we collaborated with the Judiciary and there was an inter-ministerial committee called Partnering for Justice and the Inter-agency Collaboration on Improving the Administration of Justice. We meet. [*Desk thumping*] We all come together, and we meet to discuss policies for the administration of justice, to evaluate progress, to develop strategies for improvement, to discuss communications, technology development, and how to resolve information sharing issues, which is a critical cog in the wheel. And this Inter-ministerial Committee is one that the People's Partnership is very proud to have introduced. Because when this Inter-ministerial Committee meets, we all meet at the Chambers of the hon. Chief Justice in the Hall of Justice. He chairs that meeting. He has his team with him there. And the Minister of Public Administration, the Minister of Justice, the Minister of Legal Affairs, myself as Attorney General, and the Minister of National Security, we all sit there. And whatever problems there are, with respect to projects concerning the administration of justice, we sit around the same table without any

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concerns about breaching separation of powers; we sit there, understanding our constitutional mandate to serve the people, and we get on with the work. And you would not believe how much we have been able to accomplish with those face-to-face meetings, Mr. President.

When it comes to information—harnessing available technology, we have been trying our very best to harness available technology in improving the administration of justice.

**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. F. Al-Rawi*]

*Question put and agreed to.*

**Sen. The Hon. A. Ramlogan SC:** I thank you very much, Mr. President.  
[*Desk thumping*]

Mr. President, at the moment, in the Magistracy, a lot of unnecessary time is spent when the accused person is brought before a magistrate, in terms of dealing with his antecedents. The Government's vision for this is that when a decision has to be made about incarceration or release on bail, at the very first hearing, we want to be able to provide the magistrate—and this is what our vision is—on the first hearing with information about complete fingerprint braced, standardized national criminal history record, including his juvenile history records. So your antecedents, you must have it at a fingertip: any outstanding warrants, your probation status and conditions, status of all pending matters that the accused might have, drug treatment status and test results; so if you are a repeat offender and you are supposed to be in rehab, we should have a report on that; outstanding protective orders and history, alimony and child support orders and sexual offence registration status. That is where we would like to take it, so at the click of a button, the magistrate will get everything. In other words, the criminal profile is there; the dots are there, and it is all connected at the click of a button. That is what we are trying to do. And we are working extremely hard to try and get this operational, and we meet all the time to try and advance this as a measure.

The remand hearings by video link in the various Magistrates' Court—in the Scarborough Court, of course, we have that as a pilot project, and it is doing quite well. You know, Mr. President, outside of that—it is not just about concentrating on the administration of justice as we know it in its classical sense. We are now

talking about a daycare, an after-school and vacation centre. Construction was started in July of 2013 to transform the southern section of the old wing of the St. George West Magistrates' Court into the Judiciary's first ever after-school and vacation centre. So that the employees who serve in the administration of justice will have that kind of benefit.

The Employee Assistance Programme, the Health and Wellness Programme; we are trying to treat the Judiciary and the employees there with the kind of dignity and respect that they deserve. Because you know, Mr. President, for those of us who have had the fortune or misfortune, as the case may be, of working alongside some of these public officers—I mean, if you go to Magistrates' Court and you see, you know as I did when we had the failed case brought by the PNM against Mr. Winston “Gypsy” Peters for voter padding, I had to go to the Mayaro Court for the first time. I was shell-shocked. I thought I was in an old World War movie. I could not believe it. But there you went, and at any given point in time, “dey will stop yuh and tell yuh slow down, because de poor lady sit down dey and dat lady have to write by hand everything yuh saying.” And then, you know, they cannot even get up to go to use the washroom. They cannot get up to eat. Their whole life is dependent on, you know, the discretion of the magistrate and the lawyers there.

Those are the kinds of officers we have had. And it is high time that we start to show them a little respect. And this Government, the People's Partnership Government, we are saying [*Desk thumping*] we will treat them with some dignity and respect, and we are, therefore, very supportive of these efforts of the Judiciary, and we are providing the financing for it, so that they can, in fact, Mr. President, treat the employees and staff in the administration of justice with some dignity.

Now, one of the innovative measures in this Bill is the fact that the right of appeal is now to the magistrate, as opposed to the Court of Appeal. Mr. President, what that does, really, is it also has a domino effect, not just in terms of freeing up judicial time before the Magistrates' Court, but it also has a knock-on effect in the Court of Appeal. Because, really, by the time something reaches the Court of Appeal, that is like a case reaching the Privy Council; it is the long stump: a man fielding on the boundary behind the wicket keeper. You see? It is the long-stump man. “Ah geh it correct? Yeah, dah is long stump.” You see, because in the first instance your right of appeal, as it were, is really before the magistrate.

**Hon. Senator:** “If yuh have ah good wicket keeper yuh doh need ah long stump.”

**Sen. The Hon. A. Ramlogan SC:** Right now the only good wicket keeper for the PNM is Penny Beckles. [*Laughter*]

**Hon. Senator:** That is a wicket taker.

**Sen. The Hon. A. Ramlogan SC:** I beg your pardon. I understand that is a wicket taker, “dey say”. But, Mr. President, the reality is that the intermediate phase of mediation before you get to the magistrate that is where you will find fertile soil for resolving disputes. And why is that important? Because in these kinds of matters what you really want is a listening ear, you know. You really need an umpire with some kind of training. And that is really the hope of the Government; that at that stage you do not have the win/lose syndrome. What we want to encourage and foster is a conversation.

The Government sees—the vision for this is that we would like to see the clerk, in his role as mediator—his role is to be a facilitator. He is to facilitate a conversation to solve a common problem. That is what he will be doing. It will be a conversational approach to dealing with a problem that is common to the applicant for the liquor licence, as well as the affected residents, as the case may be. And you would tend to find that that would be resolved there, and may not even reach the magistrate, as the case may be.

So it is a very progressive piece of legislation, and I think the Minister of Legal Affairs and the Government deserve the fulsome praise that it has been given by those on the Independent Bench. [*Desk thumping*] And I am happy that we are here, as part of history, 21 years after this was recommended in the Gurley Report, and 13 years after Lord Mackay of Clashfern recommended it in the Mackay Commission of Enquiry Report, that we are here finally to deal with this matter, and the Government is very proud to be able to deal with it.

I beg to move, on behalf of my colleague, the Minister of Legal Affairs. [*Desk thumping*]

**6. 00 p.m.**

*Question put and agreed to.*

*Bill accordingly read a second time.*

#### PROCEDURAL MOTION

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you, Mr. President.

Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continues to sit until the completion of the business at hand.



*Procedural Motion*

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*Question put and agreed to.*

**MISCELLANEOUS PROVISIONS  
(LICENSING COMMITTEE) 2014**

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

*Senate in Committee.*

**Mr. Chairman:** May I just enquire if every Senator has two sets of amendments before them?

**Senators:** Yes.

**Mr. Chairman:** Thank you.

*Clause 1 ordered to stand part of the Bill.*

*Clause 2.*

*Question proposed:* That clause 2 stand part of the Bill.

**Sen. Vieira:** I have a comment and a suggestion. The first comment is that I like, very much, that you are freeing up the magistrates, as I said earlier and I wanted to remind hon. Members that in the United Kingdom and in Jamaica and many other jurisdictions, many magistrates are not lawyers at all. They are lay persons; prominent persons in their society, so this idea that you must have a lawyer sit as a magistrate and the magistrate must do this is really not necessarily so. So, I think this is a step in the right direction.

On the suggestion for the amendment, I agree with Sen. Al-Rawi about the confusion; about the alternate nominated by the local business associations. My suggestion on that is, where there is no local business association, or there are competing local business associations, or the bona fides of the purported business association are disputed or unclear, that person shall be nominated by the minister. Now, that would be in keeping with section 5(c) of the current Act but you will have to clarify who the minister is, but I do take that point on board.

**Sen. Ramlogan SC:** Could you just repeat your formulation?

**Sen. Vieira:** Where there is no local business association or there are competing local business associations, or the bona fides of the purported business association are disputed or unclear, the person shall be nominated by the minister.

**Sen. Ramlogan SC:** I am not too fussed about it. I understand the point you are making. In fact, there are other laws and we do have problems that crop up when there are competing associations. I can also think of districts where there may not be an association at all; in the rural parts in some of the other districts. So, I think that formulation, if we can probably just consider it—I think we would

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probably just have to work it a little bit, but the idea is that in default the minister would make the choice, essentially. Could you consider whether or not we could work it into the existing (c) though? Instead of an altogether new provision?

**Sen. Vieira:** Absolutely, that is how I intended it to be.

**Sen. Ramlogan SC:** Oh, I see.

**Sen. Vieira:** It would flow into that.

**Sen. Ramlogan SC:** Well, let us look at it.

**Sen. Vieira:** So, one person or his alternate nominated by the local business associations within the magisterial district, and then you say—

**Sen. Ramlogan SC:** Or in default by the minister.

**Sen. Vieira:** No, I actually, would set out the parameters because you really have different scenarios. You might have no business associations; you might have competing business associations; you might have disputes and here is where the default would be for the minister to now kick in.

**Sen. Ramlogan SC:** Let me tell you why I prefer mine as opposed to yours. Firstly, it is mine and not yours—[*Laughter*] Secondly, you see, once you start linking it to the reasons, for example, there are more than one—the bona fide is in dispute and so on—you run into the problems, now where there are other reasons that will negative the choice of one. So for example, they are in court; so that because they are in court it has no executive right now, for one. You may have other situations—

**Sen. Al-Rawi:** AG, there is a simple solution to marry the two. Permit me to interrupt.

**Sen. Ramlogan SC:** Sure, sure.

**Sen. Al-Rawi:** In (c), as it is drafted in the Bill, “one person, or his alternate, nominated by the local business associations..., you could have “appointed by the minister”. So you could take it on the top end of the definition as opposed to the tail and then obviate the need—

**Mr. Chairman:** As there may be no business association.

**Sen. Ramlogan SC:** That is the point I was just about to say.

**Sen. Al-Rawi:** In which case one ought to have some form—I understand the rationale behind this, not only to improve the type of quorum but to give the benefit for the dispute resolution mechanisms that are proposed in the Bill later

on. So, if there is no business association in that particular area, then it may be that you want to have a body or someone appointed by the minister for that purpose. It ties into a second consideration, which I wondered whether we would consider, which is why the business associations only, as opposed to a residents association.

**Mr. Chairman:** You have the municipal corporation which is supposed to be the local government representative of the people.

**Sen. Ramlogan SC:** That is right.

**Mr. Chairman:** I take it they take up the mantle of the persons in the area.

**Sen. Al-Rawi:** There is merit there.

**Mr. Chairman:** But I must confess the Attorney General's formulation seems, to my mind, to be the simplest to treat with the situation in—

**Sen. Al-Rawi:** Can we hear that again, Mr. Chairman?

**Mr. Chairman:** I understood it to say that after magisterial district we say "or in default by the Minister".

**Sen. Ramlogan SC:** Yes, that is it.

**Sen. Vieira:** I am okay with it, but what triggers the default?

**Sen. Ramlogan SC:** The "or in default" will be if you have no nominee.

**Sen. Al-Rawi:** AG, if five business associations turn up and say, "We want this particular person"? In Port of Spain you take five business associations and they all turn up, then the default does not kick in yet. The default is if nobody turns up.

**Mr. Chairman:** They are a few local associations, you know, so they really need to get together and nominate one person.

**Sen. Al-Rawi:** But what if there is conflict and five of them say they want—

**Sen. Ramlogan SC:** Then you go to the default.

**Sen. George:** The minister takes over.

**Mr. Chairman:** That is why I think it is simplest to trigger the default.

**Sen. Al-Rawi:** Default is a consequence of a failure of the first one.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** But the language as proposed in the amendment does not convey that clearly enough which is why—

**Sen. Ramlogan SC:** Or you can say “and in default”.

**Mr. Chairman:** Or, “in default of such nomination”, if you want.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** But what if there are five nominations?

**Sen. Ramlogan SC:** The minister will select one from the five.

**Sen. Al-Rawi:** You see, this is where—

**Sen. Ramlogan SC:** But the Chairman is right, it says one person; they have to nominate one person; you cannot have more than one.

**Sen. Al-Rawi:** This is where I agree with Sen. Vieira.

**Sen. Ramlogan SC:** Hold on one second. [*Pause*]

**Sen. Al-Rawi:** I understand your concern.

**Sen. Ramlogan SC:** It seems to me that they have to get together—I understand.

**Mr. Chairman:** Yes, that is what would happen; one person they would appoint.

**Sen. Ramlogan SC:** The way I interpret it is that they will have to get together and make one nominee.

**Mr. Chairman:** That is right; that is what it requires. In default of finding a common ground, you go to the minister.

**Sen. Robinson-Regis:** Sorry, Mr. Chairman. I think Sen. Vieira also mentioned the situation where there is no business association.

**Mr. Chairman:** And that would be the default position as well.

**Sen. Robinson-Regis:** So we need to take that into consideration as well.

**Sen. Ramlogan SC:** Which is why I proposed the default.

**Sen. Al-Rawi:** But it works if there is none. If the JCC, the Chamber of Commerce; the Amcham in Port of Spain; let us take those three as three real living examples turn up and say, “Well, we want the TTMA as a fourth one”? They all come and say “This is it” there is no default. There are four members now and none of them agree; then the minister turns up and says, “I am appointing.” Well, no, Mr. Minister, you cannot appoint because we are not in default.

**Sen. Ramlogan SC:** Well, you are in default because you have not submitted one.

**Mr. Chairman:** You have not chosen one person. It says one person nominated by.

**Sen. Ramlogan SC:** It says, “one person, or his alternate nominated by the local business associations within the magisterial district.”

**Sen. Vieira:** But you see, the concern there is you can have competing local business associations. I also threw out a third possibility and that is, a sham business association.

**Sen. Ramlogan SC:** The bona fides point.

**Sen. Vieira:** The bona fides point—because you could just create yourself to get yourself on that licensing committee and, by default, you are the only association so called and you are on.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** AG, I understand the mischief you are trying to avoid, which is being too narrow in the circumstances in which this is elected. I understand that, but I did not understand Sen. Vieira’s proposed amendment to put us within that mischief zone necessarily.

**Sen. Ramlogan SC:** No, no, I do not take it like that at all. Well, we can add Sen. Vieira’s formula as a (d). Yes?

**Sen. Vieira:** In the same vein I will say I do not necessarily see the need to have a residents representative.

**Sen. Ramlogan SC:** No, you do not need to.

**Sen. Vieira:** What is important is that the objections of the residence will be dealt with fairly and—

**Mr. Chairman:** Sen. Veira, could you read out your formulation for what will become (d) again, please?

**Sen. Vieira:** Now, this was just off the top of my head.

**Sen. Ramlogan SC:** I know, I know.

**Sen. Vieira:** So, this would continue:

Where there is no local business association or there are competing local business associations—

**Mr. Chairman:** We are taking it down, Senator.

**Sen. Vieira:** Oh, sorry, the long hand. [*Laughter*]

**Mr. Chairman:** There is no local business association—

**Sen. Vieira:** ...or there are competing local business associations, or the bona fides of the purported business association are disputed or unclear—[*Pause*]

**Mr. Chairman:** ...disputed or unclear?

**Sen. Vieira:** Yes, and then I would put a comma there; the person shall be nominated by the minister. In the original Act—if I could just remind, that—the licensing committee in the original Act is the magistrate, the authorized officer designated for that licensing district; and:

“(c) one person nominated by the Minister”

So, I was just following (c).

**Sen. Al-Rawi:** And, instead of the word “purported” perhaps “proposed”?

**Sen. Ramlogan SC:** Alright, here is what I want to propose:

Where there is no business association or more than one business association the minister shall select a representative from the business community.

You see, I am trying to avoid going into the reasons as to the competing or the bond fides, putting that in the law itself. I mean, this will capture any permutation. Where there is no business association or more than one business association, the minister shall select a representative from the business community.

**Sen. Vieira:** But, you may have the more than one and they agree amongst themselves that we will nominate “X”. So, I do not want a situation where there is agreement and you still end up with a default.

**Sen. Ramlogan SC:** Yes, I hear you, but if they do that I had in mind that would be caught by (c) and this would be the fall back, but I hear you on that. So we could look at that.

So, where there is no—I mean, this is really a—[*Interruption*] Yes. It is where there is no business association or more than one business association—

**Sen. George:** Add there, “a nominee cannot be agreed”.

**Sen. Ramlogan SC:** Yes, or no—

**Mr. Chairman:** That is a good point.

**Sen. George:** A nominee cannot be agreed.

**Sen. Al-Rawi:** Or in default of agreement on the nominee.

**Sen. Vieira:** I could live with that.

**Sen. Ramlogan SC:** Or in default of an agreed nominee, the minister shall select a representative from the business community.

**Sen. Robinson-Regis:** Could you repeat it?

**Sen. Ramlogan SC:** Yes, I will read it one last time.

Where there is no business association—

**Mr. Chairman:** No local business association.

**Sen. Ramlogan SC:** Yes, no local business association or more than one such association—

**Sen. Robinson-Regis:** On that particular phraseology—

**Sen. Ramlogan SC:** I am just calling out this off the top of my head.

**Sen. Robinson-Regis:** But (c) suggests that there may be more than one, because it says “by the local business associations”.

**Sen. Ramlogan SC:** Sure.

**Sen. Robinson-Regis:** It already suggests that there may be more than one. So, It may be better to just say “where there is no business association” and then—

**Mr. Chairman:** Or there is no agreement.

**Sen. Robinson-Regis:** Or there is no agreement. I think that is what you had. Instead of saying several, because it already suggests that there may be several.

**Mr. Chairman:** Or in default of an agreed nominee is what you said.

**Sen. Robinson-Regis:** Yes.

**Sen. Ramlogan SC:** Yes.

**Mr. Chairman:** So, we do not have to bring in the concept of more than one again.

**Sen. Robinson-Regis:** So, you do not have to bring in the more than one again.

**Sen. Ramlogan SC:** Yes, that is fine, that makes sense.

**Sen. Robinson-Regis:** Because it already exists here.

**Sen. Ramlogan SC:** Okay, I think the Chair has it now.

**Mr. Chairman:** Are there any other—

**Sen. Robinson-Regis:** May I ask a question, Mr. Chairman? Is there a need to repeat, “within the magisterial district”?

**Mr. Chairman:** If it is a separate clause.

**Sen. Robinson-Regis:** And we separate it.

**Sen. Ramlogan SC:** It is a subclause so there is no need to repeat it, really.

**Sen. Robinson-Regis:** No need to repeat “within the magisterial district”?

**Mr. Chairman:** No, that was the chapeau—

**Sen. Ramlogan SC:** Yes, it is in the chapeau so we did not need to repeat it.

**Sen. Robinson-Regis:** And that is okay?

**Sen. Ramlogan SC:** So, I have it as being:

Where there is no local business association or no agreed nominee, the Minister shall select a representative from the business community.

Sen. Drayton?

**Sen. Drayton:** I was just wondering, could the minister just select a person from the business community and done with that?

**Sen. Ramlogan SC:** Well—

**Hon. Senator:** That was the original—

**Sen. Drayton:** Suppose the business associations nominate someone that even the minister knows that this person is unfit for some reason; because we have not gone into anything in this Bill to speak about who is a fit person to sit on the committee. So, I think, really, this should be a discretion of the minister in consultation with the business community.

**Mr. Chairman:** It is an interesting—

**Sen. Ramlogan SC:** Yes. You see, we did not want anybody to accuse the minister, now, of getting too involved, but that is a very laudable suggestion, so we would accept it.



**Sen. Drayton:** Yes.

**Sen. Ramlogan SC:** So, we could take off (c) altogether—take off my beautifully, elegantly drafted amendment [*Laughter*—and we would now go back to the old one. The old one is a bit long so I ask you to bear with me. It reads as follows—5(c), this is what the old law was:

“one person nominated by the Minister.”

[*Laughter*]

**Mr. Chairman:** I think that Sen. Drayton wants to say “in consultation with the business community”.

**Sen. Ramlogan SC:** Yes, in consultation with the business community; and we good to go.

**Sen. Robinson-Regis:** Sorry, this replaces (c)?

**Sen. Ramlogan SC:** This is the existing law. But it will replace (c).

**Sen. Robinson-Regis:** Do you want to include “or his alternate”?

**Sen. Vieira:** Yes, you would need that.

**Sen. Robinson-Regis:** That is how we have been going. Right.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** One person nominated by the Minister—

**Mr. Chairman:** In consultation with the local business community—

**Sen. Al-Rawi:** Or his alternate.

**Sen. Ramlogan SC:** Well, we will put in the alternate at an appropriate stage because I do not want to make it sound as though the minister has an alternate; the man could lose his “wuk”. [*Laughter*] We should put it at the end.

**Sen. Al-Rawi:** Nominated...in consultation with the local business associations within the magisterial district.

**Mr. Chairman:** No, we said about the magisterial districts—

**Sen. Cudjoe:** I have a concern with that as it relates to Tobago.

**Mr. Chairman:** It should just be local business because you may have no association.

**Sen. Ramlogan SC:** Exactly. The THA is separately dealt with. “Doh worry, yuh will get on.”

**Sen. Cudjoe:** No, no, I am talking about the role that the Tobago Chamber of Commerce would have played in the amendment. Now, we are neglecting that role and now dealing with somebody appointed by the Minister. In the case of Tobago, we do not have competing business associations; it is just the Tobago Chamber of Commerce.

**Sen. Ramlogan SC:** Yes.

**Sen. Cudjoe:** So—

**Sen. Ramlogan:** No, but the THA makes the nomination; so the THA will consult, no doubt, with the Chamber of Commerce. I mean, if you do not trust the THA, you tell us.

**Sen. Cudjoe:** No, no, I am not dealing with the THA’s representative. I am speaking about the business person that we were just discussing from the Tobago business community. Could that not come from the Tobago business chamber rather than the minister select that person? I agree to what—the legislation that we debated today, I agree with what that was—

**Sen. Ramlogan SC:** The present law, as it stands, you all did not have two picks, you know. So that what we are saying is that, in representing the Tobago interest, the THA will give you a representative for Tobago when it comes to liquor licences for Tobago. I do not think you really need to go beyond that.

**Sen. Al-Rawi:** I think Sen. Cudjoe’s point is—

**Sen. Cudjoe:** I think you are not understanding what I am saying.

**Sen. Ramlogan SC:** No, I do. You are saying they should have a THA rep and a representative from the business community from Tobago.

**Sen. Al-Rawi:** She is looking at the language in the proposed amendment for the new (c) to see whether it is excluding the operations of the Tobago Chamber of Commerce.

**Sen. Cudjoe:** Yes.

**Sen. Al-Rawi:** Perhaps, if we could just repeat the language for the new (c). Could we just hear it one more time?

**Sen. Ramlogan SC:** It reads:

One person nominated by the Minister in consultation with the local business associations or his alternate.

**Sen. Cudjoe:** Okay, that—

**Sen. Ramlogan SC:** Yes, that is what I am saying; that covers it.

**Sen. Cudjoe:** So, if the Tobago Chamber of Commerce makes a recommendation, can the minister override that recommendation as the current legislation stands in this amendment that we—

**Sen. Ramlogan SC:** Well, no because one would be hard-pressed to, really. You know? [*Interruption*] One would be hard-pressed to because it is in consultation with the relevant business association.

**Sen. Cudjoe:** Okay, thank you.

**Sen. Ramlogan SC:** All right. Okay, Mr. Chairman, let us move on.

**Mr. Chairman:** So, that is the (c).

**Sen. Ramlogan SC:** So, we are deleting the present (c) and we are replacing it with:

“One person nominated by the Minister in consultation with the local business association or his alternate.”

**Mr. Chairman:** Are there any other amendments you propose for clause 2?

**Sen. Cudjoe:** What is happening with clause 2(w), an amendment that was circulated by the Minister of Legal Affairs?

**Sen. Al-Rawi:** Before you get there, there is a new (ba) and (bb) on the circulated amendment. Perhaps we should deal with those first and then work our way down to (w) and (x)?

**Mr. Chairman:** That is why I asked that question.

**Sen. Ramlogan SC:** Sure.

**Sen. Al-Rawi:** AG, are you dealing then with the—

**Sen. Ramlogan SC:** Yes, (ba) and (bb).

**Sen. Al-Rawi:** But clause 2(a), did we deal with the new proposed new 2(a) which was renumbering clause (5) to (6) on the Bill?

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** And then there was also deleting the word “if” and substituting the word “and” in section 5(5). I was wondering if you could help us because there are two “ifs” in that subsection.

**Sen. Robinson-Regis:** It is the second one.

**Sen. Al-Rawi:** So, it is the second one? I think it is. Yes?

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** So, it is, right. Just for caution, it is:

“Participates in the making of a decision and he knows or ought reasonably to know...”

Correct?

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** What about the issue of—this was taken—

**Sen. Ramlogan SC:** We changed the “if” to “and”.

**Sen. Al-Rawi:** I got you.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** So, instead of “if” it goes to

“...and he knows or ought reasonably to know, that in the making of a decision...”

I had raised the issue and I accept that this comes from the Integrity in Public Life Act—this conflict of interest provision. But in the Integrity in Public Life Act it is built in the backbone of section 24 of that Act. I was wondering if it is suitably clear or does it cause any confusion about the wording “or of any other person” at the end of subsection (5) there. So, if you read it:

For the purposes of subsection 4 a conflict of interest is deemed to arise if a member of a licensing committee—

**Sen. Ramlogan SC:** Change “if” to “and”.

**Sen. Al-Rawi:** No, the second one. That stays as “if”.

...if a member of a licensing committee makes or participates in the making of a decision and...

Changing the “if” to “and”

he knows or ought reasonably to know that in the making of the decision there was an opportunity either directly or indirectly...

Look at it this way; divide it out—

...either directly or indirectly to further his private interest...

Okay, that is agreed.

or that of a member of his family...

Agreed.

or of any other person.

**Sen. Ramlogan SC:** So where do you want to put it?

**Sen. Al-Rawi:** My question is: How do we deal with that “or of any other person”? Because it will always apply.

**Sen. Ramlogan SC:** What about if we add “known to him”?

**Sen. Al-Rawi:** I think the mischief we are looking at—if we identify the mischief first—is making sure that there is no connected position there. The question was whether the words “or of any other person” could be a suitable connection to the person who has the conflict of interest.

**Sen. Ramlogan SC:** Well, I thought they will have to interpret it *ejusdem generis* and it will connect back to private family-interest member and if you take the section as a whole, the mischief rule will take care of that because it really clearly—its intent is to deal with a conflict of interest situation.

**Sen. Al-Rawi:** Well, then for the purposes of the *Hansard* and to aid with interpretation, I would like to agree in confirming that we would read it in *ejusdem generis* and that we would be looking to the mischief rule such that the words “or of any other person” would be interpreted as dealing with a conflict of a familial nature to deal with a legal or equitable interest conflict.

**Sen. Ramlogan SC:** Yes, and it may not even be familial. It could be a girlfriend or somebody, but the idea is there should be some kind of personal interest or someone you know or someone whose interest you are improperly about to advance in circumstances where you might be consciously or subconsciously biased.

**Sen. Al-Rawi:** I looked at the Financial Institutions Act which defined connective parties.

**Sen. Ramlogan SC:** I am agreeing with you, you know.

**Sen. Al-Rawi:** Okay.

**Sen. Ramlogan SC:** Let us move on. Yes, Mr. Chairman, put that thing fast before they talk again. [*Laughter*]

**Mr. Chairman:** All right. So—

**Sen. Al-Rawi:** Deal with the new 2(ba) and—do it with that at the end or?

**Mr. Chairman:** No, I would have thought that we would do it now.

**Sen. Ramlogan SC:** No, we are doing it now. I thought we agreed to that, man.

**Mr. Chairman:** In sequence.

**Sen. Al-Rawi:** So, in 2, there is proposed the new 2(ba) and 2(bb).

**Sen. Ramlogan SC:** Umm hmm.

**Sen. Al-Rawi:** And a new 2(dd) and 2(e), as well; and then the second paper deals with a 2(w).

**Mr. Chairman:** I was not sure where the 2(w) came in to this, by the way.

**Sen. Al-Rawi:** Was it to deal with the issue of clause 60 in the parent Act?

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** Right, to add in the interest of protecting minors by including a jail term and raising the fines proportionately.

**Sen. Ramlogan SC:** Yes.

**Sen. Al-Rawi:** Thank you, hon. AG.

**Sen. Ramlogan SC:** Sure, no problem.

**6.30 p.m.**

**Sen. Al-Rawi:** AG, I had a concern about the language in the new 2(bb)—this is on the second list of amendments. So it says in section 21A, if we are looking at that—21A (1), sorry—that you are removing the right of appearing before the licensing committee which is fine, that deals with the harmonizing aspect of the committee vs. magistrate.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** And substituting the words “may object, in writing, to the grant or renewal of a licence or the transfer of any licence to any new premises or person, stating the grounds of the objection, and every such objector shall be

heard by the licensing committee”. My question arose on the issue of the oath which will come up in a separate point. That hearing, I mean, you have put it in the parent Act, are we relying upon section—one moment. Is it 80? Are we relying upon section 85? Section 85 of the parent Act says:

“All evidence given before a licensing committee under this Act shall be on oath which the committee or any member thereof is hereby authorized to administer.”

And if so, if we are relying on section 85 of the Act—

**Sen. Ramlogan SC:** Not for the mediation, no, not for the mediation. Because, remember mediation is outside of the confines and rigours of the courtroom so it would not apply there, but it would apply when you go before the magistrate.

**Sen. Robinson-Regis:** To appeal.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** Right.

**Sen. Ramlogan SC:** I think Mrs. Robinson-Regis has understood it clearly, talk to her.

**Sen. Al-Rawi:** I got that but the second point here is that section 85 with the redefinition of licensing committee means that having removed the requirement for an oath—[*Interruption*]

**Sen. Ramlogan SC:** Yeah, I understand.

**Sen. Al-Rawi:**—in the magisterial point that we cannot rely on section 85 because the definition of licensing committee has changed, so that we would have to factor the inclusion of evidence on oath before the magistrate which this Bill has removed.

**Sen. Ramlogan SC:** Well, no, you see, I mean, a magistrate cannot just convene a court and talk to people, you know. I mean, if he has to receive evidence in terms of that hearing which comes before him, bearing in mind there is a right of appeal to the Court of Appeal, he has to receive the evidence on oath, but I do not know that—[*Crosstalk*] What that provision you read there dealt with is it removes the licensing committee’s right to receive evidence formally because they are no longer going to be receiving evidence formally because there is not going to be a disputed hearing and there is not going to be an adjudicative role for them to play in terms of giving adjudication. But the magistrate performs an adjudicative role, and therefore, for him to adjudicate, he will have to hear both sides and the evidence as he goes.

**Sen. Al-Rawi:** Here is why I have raised it.

**Sen. Ramlogan SC:** Yeah, sure.

**Sen. Al-Rawi:** We are harmonizing with eight pieces of law. Take for example the Registration of Clubs Act, the parent Act, section 14A(1) says:

“A Licensing Committee may, on complaint made in writing by a person to whom this section applies, make an order directing the club to be struck off the Register if it is satisfied by proof on oath before it that the conduct of any trade or business on premises...is contrary to...”

And that appears in other bits—the cinematograph and those other bits of legislation. So we have an inconsistency in harmonization where, on some occasions, we are requiring the inclusion of evidence on oath and on other occasions, we are removing it specifically, and if we are relying on section 85 of the parent Act, then we have removed the oath because the licensing committee does not comprise the magistrate that hears the appeals.

**Sen. Ramlogan SC:** No, you see, the right to go before the magistrate, when you go before the magistrate, the normal rules of evidence will apply, and we have not tampered with that in any way. All we have done is to create an intermediate stage of mediation.

**Sen. Al-Rawi:** No, AG, I am talking about the objection.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** What I am talking about is the Bill proposes in—yeah, let me get the exact section. The Bill proposes in section 21A, it arises in clause 2, right, if we look at the original subsection (i) on page 7—[*Interruption*]

**Sen. Ramlogan SC:** Yeah, 3—okay, sorry.

**Sen. Al-Rawi:**—or page whatever it is, no number on these pages—clause 2(d) section 21A(i):

“by repealing subsection (1)”—of 21A—“and substituting the following subsection:”

**Sen. Ramlogan SC:** “A Magistrate may”—

**Sen. Al-Rawi:** Right.

“A Magistrate may, on a complaint made in writing by a person to whom this section applies, suspend or revoke a licence if satisfied that the conduct of any



trade or business on licensed premises to which the public has access is contrary to...21B.’;”

When you look at the original 21A in that Act, it says:

“A licensing committee”—so we are now swapping that for the word “magistrate”—“may on complaint”—we would have added in the word “a”—“made in writing by a person to whom this section applies”—same language as proposed—“suspend or revoke a licence”—same language—“if”—delete the words—“it is satisfied” and then we would have deleted “by proof on oath before it...”.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** So what I am saying is section 85, if we were interpreting this in law, they would say, “Parliament in its wisdom saw it fit to remove the words ‘by proof on oath before it’, which existed in the previous law”.

**Sen. Ramlogan SC:** Well, if we just put back “by proof on oath”, “nobody eh go dead yuh know”.

**Sen. Al-Rawi:** Exactly, that takes care of it—cleans and takes care of the anomaly of section 85.

**Sen. Ramlogan SC:** But let us hear Sen. Vieira; let him try and mediate this dispute to illustrate how the Act is supposed to work.

**Sen. Vieira:** All right. So as I understand it, we are trying to free up formal evidence so the licensing committee goes through an automatic process because all the preliminary legwork has been done. An objection now comes up and let us assume—I am going to come back to the mediation point—that they cannot agree, it now goes to the magistrate for trial.

**Sen. Ramlogan SC:** Correct.

**Sen. Vieira:** It seems to me that we could meld the two points of view by saying if we look at 21(3B), but this section is repeated throughout:

“Where the parties fail to agree to a resolution, the matter shall be heard by a Magistrate assigned for duty in the magisterial district and the Magistrate may make an order approving or refusing the grant, transfer or renewal of the licence.”;

And I would add “all such evidence given before the magistrate shall be on oath”. So you pull back in that section that Sen. Al-Rawi is concerned about, but we are pulling it to where you have the trial situation.

**Sen. Al-Rawi:** You see, 21A deals with the objection before the magistrate.

**Sen. Ramlogan SC:** I took it for granted that once the magistrate wears his judicial cap that he will accept evidence on oath, but to put it beyond the shadow of a doubt, I do not have a difficulty to put it in.

**Sen. Vieira:** You see, I am not sure how liquor licences fall under the Summary Courts Act.

**Sen. Ramlogan SC:** Yeah.

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

**Sen. Vieira:** Out of an abundance of caution, it should be used.

**Sen. Al-Rawi:** It should be there.

**Sen. Ramlogan SC:** I do not mind putting it in.

**Mr. Chairman:** Can I ask at what section you are suggesting that in?

**Sen. Ramlogan SC:** That is 21(3B).

**Sen. Al-Rawi:** That would be in clause 2(c), Sen. Chairman.

**Mr. Chairman:** Clause 2(c).

**Sen. Vieira:** But (3B) repeats because for all the different types of things so you could use that mantra.

**Sen. Ramlogan SC:** Mutatis mutandis.

**Sen. Vieira:** Now, while we are on this (3B), I wanted to suggest—now, the idea is we are trying to have mediation between the applicant and the objectors, but it may be that the licensing committee lack the necessary experience and training as a mediator. So may I also suggest that you insert a provision that the licensing committee may authorize a certified mediator to try and effect a settlement of the matter.

**Sen. Al-Rawi:** That is a very good suggestion.

**Sen. Vieira:** So they have the option to bring in a professional mediator to try and help.

**Sen. Ramlogan SC:** Before it goes to the magistrate you are talking about? Right?

**Sen. Vieira:** Yeah, yeah.

**Sen. Ramlogan SC:** Yeah, yeah, yeah.

**Sen. Vieira:** So they could try and mediate between themselves or it might be a little contentious and beyond them, so they have the option as you had done in the Data Protection Act, where they have the possibility of engaging a certified mediator to assist.

**Sen. Ramlogan SC:** You see, you have made two interesting points. Let me deal with the latter one first. My understanding of it is that you are trying to avoid creating too many layers to deal with a simple problem, you know, and I thought that the clerks, really, would receive some mediation training and they are the ones who are meant to be the facilitator and mediator as it were.

The reason I say that is because if we give them some mediation training, that is an investment that will pay rich rewards outside of just liquor licence applications, even in bail applications and other functions that, you know, the myriad of functions that they perform. So that my thinking was that because we are asking them to perform mediation, we will have to train the mediator and the mediator in this case happens to be the Clerk of the Peace. So that instead of having them refer it and hire somebody else because then the next question “who go pay”, you follow. So my thinking was that we will have to train the Clerk of the Peace, let them get mediation training, and that will solve that problem, and I am prepared to say that is what we will do.

**Sen. Vieira:** AG, in principle, I mean, it sounds fine, but what happens if the Clerk of the Peace has not really done the training and the Clerk of the Peace may have done the training but is not really a good mediator, he has not been keeping efficient. In an ideal world, if you have a Clerk of the Peace who is a trained mediator and can effect the resolution—good, but I am all in favour of trying to avoid litigation.

**Sen. Ramlogan SC:** Yeah.

**Sen. Vieira:** So it may be as a fallback position that the licensing committee could say, “Look, this is getting a little contentious”; we have the possibility of this. You might not do it in every case, but do not forget too—[*Interruption*]

**Sen. Ramlogan SC:** You see, let me tell you what I fear, when you create these opportunities, what tends to happen is that the mediator in this case will be a community mediator you are talking about—it is somebody at the lower end of the scale, it is not the commercial mediator—and “dey go strike up ah nice relationship” and you will find that all the cases will go to mediation all of a sudden. So that I really prefer that we train the clerk.

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[SEN. THE HON. A. RAMLOGAN SC]

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If the clerk cannot—listen, these clerks and them, they are more experienced than some of the other people that we have who are good and great. They deal with the run of the mill public every day and they have been practising mediation long before we even thought about it. They actually have a lot of life and people skills in dealing with people. So I am very optimistic about them with some formal mediation training being able to act as a facilitator in resolving the dispute, and failing which, you have the magistrate. But to put a third option there to—you know.

**Sen. Vieira:** As a possibility! What would be wrong with having just as an option? I am not disagreeing that the clerk should not have a first right but I am just giving a fallback.

**Sen. Ramlogan SC:** Well, I will leave this to the Minister of Legal Affairs to probably consider and speak to.

**Sen. Al-Rawi:** AG, hold on, one moment. The Chief Justice, for instance, in our civil proceedings rules has initiated a mediation pilot programme which is very successful—*[Interruption]*

**Sen. Ramlogan SC:** Sure.

**Sen. Al-Rawi:**—using external mediators and using judicial mediators. That is not provided in the civil proceeding rules, so there can be rules of court or directions of the Chief Magistrate or Chief Justice to deal with the issue of passing out.

**Sen. Ramlogan SC:** That is true too.

**Sen. Al-Rawi:** I am concerned and I join you in the issue as to who is going to pay for the mediation in the event that we have it because it becomes a State cost. What concerned me was the conflict of interest but then that would wrap itself up by if there is an objection and it cannot be resolved, it goes to the magistrate. So I am quite satisfied with it staying as it is.

The bit that concerned me a little bit later down was that the Clerk of the Peace could assign a public officer to perform the duties of secretary of the licensing committee. Does he have the power to do that or should it be the Chief Magistrate?

**Sen. Ramlogan SC:** I mean, the clerk will now be the chair of the licensing committee so he would have the power, I would think. I would leave that. You see, we are trying to unburden the magistrates.

**Sen. Al-Rawi:** Sure.

**Sen. Ramlogan SC:** So you know, the less administration they get into, you want them to decide cases against “bandit and thief and thing, man”; you do not want them to be deciding who is the secretary for a liquor licensing committee that the Clerk of the Peace could chair—Mrs. Drayton, what do you think? Come, talk and help me out here, quick.

**Sen. Drayton:** Quite frankly, I do not believe a magistrate should appear anywhere at all in this so—*[Laughter]*

**Sen. Ramlogan SC:** Well, exactly. So we will accept Sen. Vieira’s suggestion about the evidence on oath bit.

**Mr. Chairman:** Are we putting in a (3C) to capture that or that is going to be part of (3B)?

**Sen. Ramlogan SC:** No, we are tacking it on to (3B) and it will have a domino effect to replicate itself throughout.

**Mr. Chairman:** Yeah, and how are we going to—is it at the end of that sentence “transfer or removal of the licence”?

**Sen. Al-Rawi:** Sen. Chairman, I was not thinking of it in (3B) at all, you know, I was thinking of it in clause 2(d) in the proposed section 21A. Just to make it pellucidly clear: one, two, three, the third line after the word “satisfied”, insert the words “by proof on oath before him” and then that would take care of it.

**Sen. Ramlogan SC:** Well, I do not really have a—I mean, you see—the draftsmen are quarreling with me here because they are saying that they drafting these provisions regularly all the time, and it has never been anything but that the magistrate acting in a judicial capacity to hear the evidence, but I have taken the point.

**Sen. Al-Rawi:** Yeah.

**Sen. Ramlogan SC:** In the interest of time, today, people have many things to do, so what we can do is we can insert after the words “if satisfied” by proof on oath. Right?

**Sen. Al-Rawi:** “by proof on oath before him”, which is the words coming from the old law.

**Sen. Ramlogan SC:** Yeah, so we will put back the old one “by proof on oath before him”.

**Sen. Al-Rawi:** Sen. Robinson-Regis is raising a very solid point here.

**Sen. Robinson-Regis:** Clause 2(d) (1):

“A Magistrate may, on a complaint made in writing by a person...”

And then you are asking by proof on oath?

**Sen. Ramlogan SC:** No, no, hold on.

**Sen. Robinson-Regis:** Is that the one that we are—

**Mr. Chairman:** Complaint is in writing but the evidence is by oath.

**Sen. Al-Rawi:** But it must be tested by proof on oath. Yeah.

**Sen. Robinson-Regis:** Yeah, so it does not follow naturally that it will be—

**Sen. Al-Rawi:** No, it is in the old law.

**Sen. Ramlogan SC:** You know, if we say “satisfied by evidence...”

**Sen. Al-Rawi:** In the old law, it was in writing and proof on oath.

**Sen. Ramlogan SC:** If we say “if satisfied by evidence”.

**Sen. Robinson-Regis:** Yes, by evidence. That has to be included for it to make sense.

**Sen. Ramlogan SC:** I think that is more elegant.

**Sen. Robinson-Regis:** For it to make sense, it should be done that way.

**Sen. Ramlogan SC:** If satisfied by evidence because you could only receive evidence as a magistrate if it is on oath.

**Sen. Robinson-Regis:** On oath, yes.

**6.45 p.m.**

**Sen. Al-Rawi:** My only reason for suggesting those same old words is that in the other pieces of legislation that we are amending today, there are clauses that we have not amended in the parent Acts which use the exact words “by proof on oath before”, instead of “it”, “him”.

**Sen. Ramlogan SC:** Well, I “kinda” side with Camille Robinson-Regis on this one.

**Sen. Robinson-Regis:** Amazingly so.

**Sen. Ramlogan SC:** No, “yuh” making sense, man.

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**Mr. Chairman:** So, it is “by evidence on oath” or just “by evidence”?

**Sen. Al-Rawi:** Well, the point—yeah, I think both achieve the purpose. I was just looking for the consistency of this Bill because it is repeated elsewhere in the parent Act, these words: “by proof on oath before him”.

**Mr. Chairman:** We could do it more elegantly on this occasion, you know.

**Sen. Robinson-Regis:** Yeah. We have an opportunity to make it more elegant.

**Sen. Ramlogan SC:** To change it, to make it more elegant, yeah.

**Sen. Robinson-Regis:** Exactly.

**Sen. Ramlogan SC:** So let us hear—if satisfied—

**Mr. Chairman:** “By evidence”? Okay.

**Sen. Al-Rawi:** Yeah.

**Mr. Chairman:** We are still on clause 2? Is that the end of the comments that Senators may wish to make?

**Sen. Al-Rawi:** There are some more, Mr. Chairman.

**Mr. Chairman:** I would expect.

**Sen. Ramlogan SC:** Sen. Vieira, before we move on, the point you had made there in 21(3B):

“Where the parties fail to agree to a resolution, the matter shall be heard by a Magistrate assigned for duty in the magisterial district and the Magistrate may make an order approving or refusing the grant, transfer or renewal of the licence.

You wanted to tack on something there?

**Sen. Vieira:** Well, if we have the change that we have just agreed—  
[*Interruption*]

**Sen. Ramlogan SC:** We okay.

**Sen. Vieira:**—that is otiose.

**Sen. Ramlogan SC:** Exactly. I just wanted to clarify that.

**Sen. Vieira:** But I would still encourage you to consider the possibility of having, whether it is a community mediator under the Mediation Act, 2004 or a certified mediator under the—*[Interruption]*

**Sen. Ramlogan SC:** I thought Sen. Al-Rawi addressed that and the way I understand it is this: the—you see, you “doh” need to put it in, you know. They will always have the option because the Mediation Act, itself says that if parties mediate, especially if it is a court-instructed mediation, then the result is binding, once they sign off on the mediation agreement. So you may not need to necessarily put it here. Would you?

**Sen. Vieira:** But the reading of this suggests it is the licensing committee. It says:

“Where an objection to the grant, transfer or renewal of a licence is made in accordance with this section, the licensing committee shall meet with the applicant and the objector to assist them in reaching a mutually acceptable resolution.”

That seems, to me, to be the three parties alone.

**Sen. Ramlogan SC:** Well, “leh meh” think about it. “I aint too sure ah favouring it, buh leh meh think about it, buh ah hear yuh.” All right, yeah, Chair. Anything else, Faris?

**Sen. Al-Rawi:** Just looking—sorry. Looking at the sheet, sheet of amendments, I saw 2(dd)(i) and I could not figure that out. Where—*[Interruption]*

**Sen. Ramlogan SC:** Which one is this?

**Sen. Al-Rawi:** This is—*[Interruption]*

**Mr. Chairman:** At the top of the second page.

**Sen. Al-Rawi:**—in the proposed amendments that were circulated, the longer version of amendments. If you look at the second page, top “ah” the page, it refers to 2(dd)(i).

**Sen. Ramlogan SC:** Yes. That is just a change—*[Interruption]*

**Sen. Al-Rawi:** No, but where is 2(dd)(i) in the Bill?

**Sen. Ramlogan SC:** It is on page 6, at the bottom.

**Sen. Al-Rawi:** Is it—*[Interruption]*



**Sen. Ramlogan SC:** In section 75. Page 6, at the bottom, (dd) in section 75, (dd)(i). You got it?

**Sen. Al-Rawi:** Yeah.

**Sen. Ramlogan SC:** It is a minor change.

**Sen. Al-Rawi:** I do not know why my Bill was not numbered on pages.

**Sen. Ramlogan SC:** Well, we were trying to prevent you from doing what you are doing now. [*Laughter*]

**Mr. Chairman:** The same issue as in 2(a)—[*Interruption*]

**Sen. Al-Rawi:** Yeah.

**Mr. Chairman:**—it means that 5 should be 6 and so on.

**Sen. Al-Rawi:** I had actually noted it, not 1 but 2, yes. And that being (dd), should we then jump back to (w), which was circulated on the second page of amendments out? Because it should have come sequentially before (dd)?

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** So I understand the proposed amendment to be to amend that (w)(i) as circulated. Is that correct?

**Sen. Ramlogan SC:** “Yep”.

**Sen. Al-Rawi:** If so, thank you.

**Sen. Ramlogan SC:** “Yep”. We amend as further circulated.

**Mr. Chairman:** So the question is that clause 2 be amended as circulated, save that in relation to the former section 5(c), instead of (c), as set out in the Act, it will read:

One person nominated by the Minister in consultation with the local business association or his alternate.

And in paragraph (d) which refers to section 21A, where we have—dealing with the repealing of subsection (1) and substituting the following subsection. It reads:

“(1) A Magistrate may on a complaint...”

We will insert after “satisfied”, the words “by evidence”.

**Sen. Ramlogan SC:** Yeah.

**Mr. Chairman:** So the question is that clause 2, as amended—[*Interruption*]

**Sen. Cudjoe:** I have a concern, Mr. Chairman. As I mentioned in my debate, I wanted to draw some attention to subclause (2)(x) and raising that penalty from \$1,000 to \$1,500 please.

**Sen. Ramlogan SC:** We are comfortable with it at \$1,000.

**Sen. Cudjoe:** You are comfortable with \$1,000?

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** AG, can I ask a question? We have in this Bill—in the parent Act, we have defined who the magistrate is. Is there any need to include a definition for the Clerk of the Peace? It is the first time we are using it. Or is that okay?

**Sen. Ramlogan SC:** “Nah, nuh really.”

**Sen. Al-Rawi:** And is there a need to direct who the Minister with responsibility for this is?

**Sen. Ramlogan SC:** No. I noticed in the previous—[*Interruption*]

**Sen. Al-Rawi:** It was not there.

**Sen. Ramlogan SC:**—no, it was not there and I will leave it at that. I think the wisdom of that probably is one that escapes us, but it could be because, you know.

**Sen. Al-Rawi:** Yeah, I think it was a mistake and they just did not catch it, yeah.

**Sen. Ramlogan SC:** Yeah, well, “leh we” not correct that now.

**Mr. Chairman:** So the question is that clause 2, as amended, as circulated and with further amendments as read out to this Committee—[*Interruption*]

**Sen. Al-Rawi:** Question, (e), which deals with the amendment for 21C, it is to repeal subsection (1) and substitute the following subsection; again the words “requiring oath on evidence” are missing—if we could include “if satisfied” after the word “satisfied” there “by evidence”.

**Sen. Ramlogan SC:** Yeah, we can include “by evidence there, that is fine.

**Sen. Al-Rawi:** Okay.

**Mr. Chairman:** Sorry. I need to get that.

**Sen. Al-Rawi:** That is in relation to clause 2(e), which proposes the amendment to section 21C(i) which proposes a repeal and replacement, insert into (i), after the words “if satisfied” on the first line of that page, the following words “by evidence”.

**Mr. Chairman:** So you want to put “by evidence” in two places.

**Sen. Al-Rawi:** Yes.

**Mr. Chairman:** So I will repeat it, that clause 2 be amended in the manner circulated with further amendments as read before this Committee including, beyond those that I have just read out, a further insertion in section 21C:

“by repealing subsection (1) and substituting the following subsection-

(1) A Magistrate may, on complaint made in writing by an aggrieved person, suspend or revoke a licence if satisfied...”

by inserting the words “by evidence”.

“...that the conduct of any trade...”

**Sen. Vieira:** On that same clause—and I am looking at the list of amendments that were later circulated because what it reads now, you want to add the words: “or other nuisance or annoyance”. But that last “or annoyance” is redundant because it:

“...has caused annoyance to persons in the vicinity of that trade or business by virtue of excessive noise or other nuisance.”

You do not need to say “or nuisance, or annoyance” again because it has “caused annoyance”.

**Sen. Al-Rawi:** Sen. Prescott is well represented today on the Independent Bench.

**Mr. Chairman:** The question is that clause 2, as amended, be amended in the manner and now stand part of the Bill.

*Question put and agreed to.*

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

*Clause 3.*

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

**Mr. Chairman:** And the amendment as circulated, one amendment, basically? That is (3)(e):

- 3(e) A. In the proposed section 6A, delete sub-clause (2) and renumber subclause “6A.(1)” as “6A.” accordingly.
- B. In the proposed section 6B., insert, after subclause (3), the following new subclause (4):
  - “(4) The procedure in respect of an appeal under sections 6A. and 6B.(3) shall be such as is set out in the Summary Courts Act.”

**Sen. Ramlogan SC:** What we did is to take subsection (2) and put it as subsection (4) and they will now apply to 6A and 6B.

**Sen. Vieira:** I just wanted to—I am not saying that for purposes of this exercise that we recast the whole Bill but I very much agree with Sen. Ramkhelawan where he says, where you have to detail the figures, it is not elegant. It is better for this to be done in regulation as opposed to substantive law because what you are going to have, you are going to have legislative locking.

**Sen. Ramlogan SC:** Yeah. Yeah, yeah, that is true.

**Sen. Vieira:** What is good for today, in 10 years' time it is totally out of date.

**Mr. Chairman:** Can we put in a section authorizing the Minister by—  
[*Interruption*]

**Sen. Al-Rawi:** Unfortunately, we cannot. I looked at that because I had the same point. We literally need to redraft the whole Act, to remove fines and penalties into a schedule for affirmative resolution. But this Act lends itself to ready review. We talk about 2,000 feet of film that is nitrate and flammable and stuff that does not even exist in today's world. So, at some point, we would no doubt look at it.

**Mr. Chairman:** So, clause 3? The question is that clause 3, as amended, be amended in the manner set out as circulated.

*Question put and agreed.*

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

*Clause 4.*

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

**Mr. Chairman:** There are two amendments for consideration.

4(a) Delete the words “and substituting the words” twenty thousand dollars””.

4(b) Delete the words “to the word “continues””.

**Sen. Ramlogan SC:** Yeah, (a) and (b).

**Sen. Al-Rawi:** Question. In this regulation, is it just imprisonment now?

**Sen. Robinson-Regis:** No.

**Sen. Ramlogan SC:** No, no, no.

**Sen. Al-Rawi:** So this circulation is to delete the words in 4(a) and substitute the words “twenty thousand dollars”? So in Regulation 24, all the words from the words “or imprisonment for” and substituting the words “twenty thousand dollars”. Could we say what it is we actually intend in the parent regulation?

**Sen. Ramlogan SC:** Let me hear yuh again on it, Faris.

**Sen. Al-Rawi:** The question is, in the parent Regulation, what is it we intend? “Ah” have it here.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** Regulation 24 says:

“If the occupier of the theatre contravenes any of the provisions of regulation 3(1), or any exhibitor contravenes any of the provisions of Regulation 5, 8, 10(6), 13 or 15, the occupier or exhibitor, as the case may be, is guilty of an offence and is liable on summary conviction to a fine of twenty thousand dollars or imprisonment for twelve months and, in the case of a continuing offence, to a further fine of one thousand dollars for each day during which the offence continues.”

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** How is that to be amended? I did not quite understand the amendment to the Bill.

**Sen. Ramlogan SC:** It will now read:

If the occupier of the theatre contravenes any of the provisions of regulations X, Y, Z—*[Interruption]*

**Sen. Al-Rawi:** Right.

**Sen. Ramlogan SC:**

—or any exhibitor contravenes any of the provisions of regulations A, B, C, the occupier or exhibitor, as the case may be, is guilty of an offence and is liable, on summary conviction, to a fine of twenty thousand dollars...

**Sen. Robinson-Regis:** No, but your amendment takes out—*[Interruption]*

**Sen. Al-Rawi:** The amendment takes out “or imprisonment for twelve months”.

**Sen. Robinson-Regis:** No, the amendment takes out—*[Interruption]*

**Sen. Al-Rawi:** So the amendment takes this out of the Bill. So the Bill says by deleting \$2,000—“leh meh” strike it and see what it looks like.

**7.00 p.m.**

I understand. On my note I had “not needed” because the \$20,000 was already there. So what you were doing is putting it that way.

**Sen. Ramlogan SC:** That is correct.

**Sen. Al-Rawi:** Right. So the amendment as proposed is otiose because \$20,000 was already there.

**Sen. Ramlogan SC:** That is correct.

**Sen. Al-Rawi:** We only intend to remove the imprisonment period.

**Sen. Ramlogan SC:** It springs back.

**Sen. Al-Rawi:** Okay. Understood.

**Sen. Ramlogan SC:** Good.

**Sen. Robinson-Regis:** So the imprisonment is what is—okay.

**Sen. Al-Rawi:** For some clarity, in regulation 25, do you mind just reading it so we are sure of what we are doing there? So delete the words—*[Interruption]*

**Sen. Ramlogan SC:** You are deleting from words “of \$2,000” straight on to “continues”. So it will now read: “conviction to a fine of \$20,000”.

**Sen. Robinson-Regis:** \$20,000. Okay.

**Sen. Ramlogan SC:** So it will read: “is liable on summary conviction to a fine of \$20,000”.

**Sen. Al-Rawi:** “Got yah.”

**Mr. Chairman:** Yeah. Okay.

**Sen. Al-Rawi:** Okay. Thank you.

*Question put and agreed to.*

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

*Clause 5.*

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

**Sen. Ramlogan SC:** Amended as circulated, Chair.

**Mr. Chairman:** Circulated, you have a number of clauses seeking to further amend clause 5.

- 5(c)
  - A. In the proposed section 8A(1), delete the words “a licensing committee shall” and substitute the words “committee shall”.
  - B. In the proposed section 8A. (2)—
    - (I) Delete the words “assigned for duty in the magisterial district”; and
    - (II) insert, after the word “approving”, the words “or refusing”.
- 5(g) Delete paragraph (g) and renumber paragraphs (h) to (p) accordingly.
- 5(f) Delete and substitute the following:
  - “(f) in section 14—
    - (a) in subsections (1) and (2), delete the words “Licensing Committee” and substitute the word “Magistrate”;
    - (b) in subsections (3) and (4), delete the word “committee” wherever it occurs; and
    - (c) in subsections (5) and (6), delete the words “Licensing Committee” wherever they occur and substitute the word “Magistrate”.
- 5(h)
  - A. Delete subparagraph (i) and substitute the following:
    - (i) in subsection (1), delete the words “licensing committee” and “it” and substitute the words “Magistrate” and “him” respectively;”
  - B. Insert, after subparagraph (ii), the following new subparagraph:
    - (iii) in section 14A.(6), by deleting the words “five thousand dollars” and substituting the words “fifteen thousand dollars”.

- 5(i) Delete subparagraph (ii) and substitute as follows:
- (ii) in subsection (2), by deleting the words “Chairman of the Committee” and “Committee” and substituting the word “Magistrate;
- 5(l) In subparagraph (i), delete the words to the words “one month”.

**Sen. Robinson-Regis:** Could you just explain why (g) is being deleted? I do not know if it—I have not read it in conjunction with—“Delete paragraph (g) and renumber paragraphs (h) to (p) accordingly”. Has it been repeated.

**Sen. Al-Rawi:** It is in the second—*[Interruption]*

**Sen. Ramlogan SC:** They moved it. It is a renumbering really. They put it lower down.

**Sen. Robinson-Regis:** Yeah. So it appears elsewhere?

**Sen. Ramlogan SC:** Yep.

**Sen. Robinson-Regis:** Yes. Is that right?

**Hon. Senator:** Yes.

**Sen. Robinson-Regis:** Okay. Where does it appear?

**Sen. Ramlogan SC:** It is back in (iii), if you look at (iii).

**Sen. Robinson-Regis:** Clause 3?

**Sen. Ramlogan SC:** Yeah. Look at (g)(iii) on page 11. If you look at page 11, you will see at the top, “yuh” seeing (iii)?

**Mr. Chairman:** The numbering is different.

**Sen. Robinson-Regis:** No.

**Hon. Senator:** The numbering is different.

**Sen. Ramlogan SC:** All right. Look at (g) in section 14. (g) reads: “in section 14A you have (i) crossed off. Are you seeing that?”

**Sen. Robinson-Regis:** Clause 5(g) says—*[Interruption]*

**Sen. Ramlogan SC:** Look at (h).

**Sen. Robinson-Regis:** Look at (h), okay.



**Sen. Ramlogan SC:** In section 14A and go to (iii), it is replicated there. Are you with me?

**Sen. Al-Rawi:** I do not actually have a (iii) on my Bill.

**Sen. Robinson-Regis:** I do not either.

**Sen. Ramlogan SC:** Look at 5(h) on the list of amendments, you will see it there, 5(h).

**Sen. Robinson-Regis:** Okay.

**Sen. Ramlogan SC:** You see it? You got it? Right that is it. Okay. Thanks.

**Sen. Al-Rawi:** Or, inserting a (iii), yeah, I see it.

**Sen. Robinson-Regis:** Yeah. Okay.

**Sen. Ramlogan SC:** Yeah. Okay. That is it.

**Sen. Al-Rawi:** Hold on. I just wanted a clarification. In clause 5, the last one, (5)(p) says:

“by repealing section 28” of this particular Act. Section 28 of the Registration of Clubs Act is the provision that requires evidence to be on oath:

“All evidence given before a Licensing Committee under this Act shall be on oath which the committee or any member thereof is hereby authorised to administer.”

Why are we removing that? Now, I could understand because the licensing committee had the magistrate who could take the oath, but removing this and not having the commensurate provision for oath before the magistrate in the parent Act itself causes a problem.

**Sen. Ramlogan SC:** I see. The reason they took it out was because the licensing committee now would not include the magistrate.

**Sen. Al-Rawi:** I understand.

**Sen. Ramlogan SC:** So it is not really relevant.

**Sen. Al-Rawi:** But the reason—why I did not raise the question about oath in this piece of legislation was because of section 28. So in the parent Act which is the Registration of Clubs Act, section 14 and other places, section 14C, section 14A, none of those have—sorry, 14A has proof on oath; 14C has—*[Interruption]*

**Sen. Ramlogan SC:** What about if we—well, if we leave 28 and say, “All evidence given before a magistrate under this Act”?

**Sen. Al-Rawi:** That would be perfect.

**Sen. Ramlogan SC:** That would solve the problem, right. So instead of that deletion, Chair—*[Interruption]*

**Mr. Chairman:** So that is (p). You are not “by repealing section 28”, you are taking that out.

**Sen. Ramlogan SC:** We will take out that and we will put: amend section 28 to change “Licensing Committee” to “Magistrate”.

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

**Sen. Ramlogan SC:** So you amend section 28 by deleting the words “Licensing Committee” and substituting the word “Magistrate”. Section 28 of the Registration of Clubs Act, and that is—*[Interruption]*

**Sen. Al-Rawi:** Can I ask just one—*[Interruption]*

**Sen. Drayton:** Seven or 8? Seven?

**Sen. Al-Rawi:** That is clause 5(p) just before clause 6 of the Bill, the last one which says, “by repealing 28”. AG—*[Interruption]*

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:**—this is to really satisfy a question that I have had for years. It is in the Registration of Clubs Act, it is in the schedule, what is a sip san table?

**Sen. Ramlogan SC:** “Or, haw?”

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

**Sen. Ramlogan SC:** “Talk to meh. We doh have—we supposed to have a Chineese on dis side, eh so”—*[Crosstalk]*

**Hon. Member:** “Larry is de closest thing.” *[Laughter and crosstalk]*

**Sen. Al-Rawi:** I will leave it there then.

**Sen. Ramlogan SC:** “I hear yuh.” Okay, Chair, “we good to go.”

**Mr. Chairman:** The question is that clause 5, be further amended beyond the amendments that appear and have been circulated in reference to section 28, (p) there, we instead remove the words “by repealing section 28” and in its place we will be saying: “In section 28 delete “Licensing Committee” and substitute in its place “magistrate”.

*Procedural Motion*

*Tuesday, February 11, 2014*

*Question put and agreed to.*

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

*Clause 6.*

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

**Sen. Al-Rawi:** Mr. Chairman, clause 6 proposes an amendment to penalties which is 11 of the subsidiary legislation, the registration rules. Regulation 11 reads:

“Every person guilty of an offence against these regulations is liable on summary conviction therefor to a fine of two hundred dollars.”

That is in keeping with the Interpretation Act which puts a limit—I think it is under \$500. I cannot remember the sum. I could not find it quickly. Do we have the authority, or could you make sure that we have it in the parent Act to raise that fine as we do now to \$10,000? Because if it is not in the parent Act, then we cannot do it here without a clause in the parent Act. [*Sen. Ramlogan SC confers with his staff*]

The Interpretation Act provides a limitation on the offences.

**Sen. Ramlogan SC:** Senator, I am just checking to see whether the power of the regulations that is fairly—[*Interruption*]

**Sen. Al-Rawi:** The AG knows it. We dealt with this before in the past.

**Sen. Ramlogan SC:** Yeah, yeah. We have. I think it is \$500 actually. We may have to amend section 22 which is the regulating/making power.

**Sen. Al-Rawi:** Yes.

**Sen. Ramlogan SC:** There is in regulation—there is 22(3), if you look at that.

**Sen. Al-Rawi:** Yep.

**Sen. Ramlogan SC:** Right. And we could amend it there?

**Sen. Al-Rawi:** Yes. I actually had the note on it here.

**Sen. Ramlogan SC:** Yeah. So we are thinking on the same level.

**Sen. Al-Rawi:** I did not pick it up quickly.

**Sen. Ramlogan SC:** So we will amend section 22(3), and we will delete \$200, and we will replace it with \$10,000.

**Sen. Al-Rawi:** Yes. That would give us the authority to do it. It is on page 22 of the parent Act.

**Sen. Ramlogan SC:** Oh, I see, beg your pardon. Sorry, Chair, the amendment is already there.

**Sen. Al-Rawi:** Is it there? I just did not see it quickly. Which one is it in the Bill?

**Sen. Ramlogan SC:** It is actually—you will see it at—[*Interruption*]

**Sen. Robinson-Regis:** (m).

**Sen. Ramlogan SC:**—(m). It is there. It is (m). Are you with me, Chair?

**Sen. Al-Rawi:** That would be in clause 5(m)?

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** I have in section (20)(2)—[*Interruption*]

**Sen. Ramlogan SC:** 22(3). Look at (n).

**Sen. Al-Rawi:** Or, it is (n). “N” as in November.

**Sen. Ramlogan SC:** That is right.

**Sen. Al-Rawi:** Okay. Well, then that would take care of it.

**Sen. Ramlogan SC:** Good. “Yuh” just waste five minutes.

**Mr. Chairman:** Are we still having a 6 is the question in light of the fact—[*Interruption*]

**Sen. Al-Rawi:** Yes, yes, because (n) exists. I had picked it up in 6 and did not tie it back to 5. Thank you.

*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. Ramlogan SC:** Sorry, Chair. I was distracted.

**Mr. Chairman:** The question was that clause 7 stand part of the Bill.

**Sen. Ramlogan SC:** Oh, yeah, yeah aye! [*Laughter*]

*Procedural Motion*

*Tuesday, February 11, 2014*

**Mr. Chairman:** No. We are not asking the question. I am awaiting a response, AG. [*Laughter*]

**Sen. Ramlogan SC:** See Camille, “what yuh causing”, Camille. [*Laughter*] Yeah amendments are circulated, Sir.

- 7(a) Delete subparagraph (i) and substitute the following:  
 “(i) delete the definition of “Licensing Authority” and substitute the following definition:  
 “Licensing Authority” means a licensing committee established under the Liquor Licences Act;”
- 7(b) A. In the proposed subsection (4A), delete the words “a licensing committee” and substitute the words “the Licensing Authority”; and  
 B. In the proposed subsection 4(B), delete the words “assigned for duty in the magisterial district”.
- 7(e) Delete paragraph (e) and substitute the following:  
 “(e)in section 4C.(1) and (2), by deleting the words “Licensing Authority” and substituting the word “Magistrate”.
- 7(i) Delete and substitute as follows:  
 (i) by repealing section 7(1) and substituting the following:  
 “(1) Any person aggrieved by any decision of the Licensing Authority refusing the grant or transfer of a licence under this Act may apply in writing to a Magistrate for a review of the decision.”

**Sen. Al-Rawi:** Question. The Bill proposes that we repeal section 4A(2), which is the authority to summons the licensee to appear before the licensing authority, but we did not include that power anywhere else. So I was wondering why we did that. [*Sen. Ramlogan SC confers with his staff*]

**Sen. Ramlogan SC:** Do you have the subsection (2) there that says repealing?

**Sen. Al-Rawi:** Yeah.

**Sen. Ramlogan SC:** Read it out for me.

**Sen. Al-Rawi:** So in the parent Act 4A—I just want to find where it is in the amendment.

**Sen. Ramlogan SC:** 4A subsection (2).

**Sen. Al-Rawi:** So the amendment is under clause 7 of the Bill, (d) deals with amendment to 4A. 4A says: to repeal subsection (1) and then substitute it, and what that essentially does is to change from the parent Act to change it from a licensing authority to a magistrate, which is fine, and it puts in here:

“...if satisfied by proof on oath...”

So that is the consistency, but it says in the Bill: that we are repealing subsection (2). So we are repealing subsection (2), which is the power. It should be of the magistrate to summons. So we are repealing (2) which was the power of the licensing authority to summons the licensee, but we have just taken that out with no exception. Did we mean to say, “amend 4A(2) to change “Licensing Authority” to “Magistrate”.

**Sen. Ramlogan SC:** Yeah, that is what should happen.

**7.15 p.m.**

**Sen. Al-Rawi:** Right. And then also too, there was a renumbering issue, because it said “in subsection (3)”—this is in the Bill now, I am reading from (d):

“...by deleting the words ‘Licensing Authority’ and substituting the... ‘Magistrate;’”

No problem, but we did not have any consequential renumbering if there was to be a deletion of (2), which is why I thought it was an error.

**Sen. Ramlogan SC:** No. Well that would not arise now because—  
[*Interruption*]

**Sen. Al-Rawi:** Yeah. It would not arise now.

**Sen. Ramlogan SC:** No, it would not. So what you do is in (2) you delete “Licensing Authority” and you substitute it with “Magistrate”, and we are good to go.

**Sen. Al-Rawi:** Yeah.

**Sen. Robinson-Regis:** Mr. Chair.

**Mr. Chairman:** Yeah.

*Procedural Motion*

*Tuesday, February 11, 2014*

**Sen. Robinson-Regis:** After you have done that, Mr. Chairman, may I ask if (d)(i)—[*Interruption*]

**Sen. Al-Rawi:** At (d)(i)?

**Sen. Robinson-Regis:** Yeah. The same clause that we were looking at—[*Interruption*]

**Sen. Al-Rawi:** Yeah.

**Sen. Robinson-Regis:**—where it says, the same issue with:

“...if satisfied by proof on oath...”—

we will have to do—[*Interruption*]

**Sen. Ramlogan SC:** Yeah. This one says proof on oath. Yeah. We have it here.

**Sen. Robinson-Regis:** So we are leaving that,—[*Interruption*]

**Sen. Ramlogan SC:** Yeah.

**Sen. Robinson-Regis:**—or we are putting in what we had?

**Sen. Al-Rawi:** By evidence.

**Sen. Ramlogan SC:** Oh. You mean by evidence?

**Sen. Robinson-Regis:** By evidence. Yes.

**Sen. Ramlogan SC:** Oh.

**Sen. Robinson-Regis:** To make it consistent.

**Sen. Al-Rawi:** That is why I was suggesting earlier you keep to one, but both are the same, evidence would mean on oath, and this.

**Sen. Robinson-Regis:** But just to be consistent with what we—[*Interruption*]

**Sen. Ramlogan SC:** Yeah—“if satisfied by evidence”.

**Sen. Robinson-Regis:** Yeah.

**Mr. Chairman:** All right—“by evidence”.

**Sen. Ramlogan SC:** Yep.

**Sen. Robinson-Regis:** Yes.

**Sen. Al-Rawi:** But I am just pointing out that throughout the legislation that it is proof on oath, right.

**Sen. Ramlogan SC:** Well, yeah. Wherever you have the—just put the evidence there.

**Sen. Al-Rawi:** No, but there are clauses that we are not amending that still use that physiology.

**Sen. Ramlogan SC:** That was deliberate.

**Sen. Al-Rawi:** Right. [*Laughter*] It could not be deliberate.

**Sen. Ramlogan SC:** Variety is the spice of life, including in the use of the English language. You cannot use the same thing throughout to be consistent, it gets boring. [*Laughter*]

**Mr. Chairman:** All right. So there are two amendments to the amendment: to the clause before us in (d), which starts off “in section 4A”, in the clause starting (1), strike “proof on oath” appearing in the third line and substitute it with the word “evidence”. In (ii) by amending subsection (2) by deleting “Licensing Authority” and substituting the word “Magistrate”.

*Question put and agreed to.*

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

*Clause 8.*

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

**Sen. Al-Rawi:** Mr. Chairman, question to the hon. AG is, whilst I see the benefit of removing licensing for moneylenders, or attempting to streamline it, and I can see there is a decent thought in there about the harmonization with respect to moneylenders, pawnbrokers, precious stones and metals; do we really want to remove magisterial? I mean, there are not many of those licences that come about.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** They are actually small in their number. When we look at the Proceeds of Crime Act, we see in the schedule to that which was amended by the FIU Act, that definitely—and I am looking at the First Schedule to the Proceeds of Crime Act as was amended—that we have money or value transfer services as defined included, but that is a financial service that accepts cash, cheques or other monetary instruments, or other stones of value in one location and pays a corresponding sum in cash, we have a business licence under the Licensing of Dealers (Precious Metals and Stones) Act, we have the Registration of Clubs Act,



but I am sort of uncomfortable in removing the magisterial scrutiny to moneylenders, and would feel certainly a little bit more confident that a judicial eye is having a look at somebody who affects a whole line of financing, of people who are vulnerable in a financial sense in our country. So I was wondering if we really wanted to go the line of including these other bits of legislation into this omnibus amendment, because of the impact that removal of a judicial eye may have on the approval of licences.

**Sen. Ramlogan SC:** The answer is yes, because you see the magistrates really, as Sen. Drayton said, you know, one does not really have to involve them in this process because the integrity of the decision is predicated on the work that is done before it comes to the magistrate, and that we have not altered in any form or fashion, because they will do the inspection, do all the groundwork and everything. But, in fact, you know, it is somewhat superfluous to suggest that by the time it gets to the magistrate, if all the approvals are before the magistrate, he has any basis to look—you know, to look at the man, to use his analogy and look at him in the eye. I mean, what is the magistrate expected to do? Look at the man and deny him the licence based on the colour of his skin, his complexion, his eyes—you know what I mean?

**Sen. Al-Rawi:** You see AG, when we look to the provisions of the Moneylenders Act—[*Interruption*]

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:**—and we look to what the licensing authority in this instance here was going to consider, I do not know if it is as routine as a bar licence is for instance. You are dealing with the character of the person who is going to hold this licence, it is not just a Town and Country Planning and Public Health Authority inspection, which I agree is routine and cumbersome.

**Sen. Ramlogan SC:** Yeah.

**Sen. Al-Rawi:** It transcends into a different realm of inspection.

**Sen. Vieira:** I am not sure I would go all that distance, because I think if you look at section 7 of the Moneylenders Act, it makes it quite clear:

“A certificate shall not be refused except on one or more of the following grounds:”

And the grounds really there do not call for too much judicial scrutiny, in my view.

**Sen. Ramlogan SC:** No. No. You see when it comes to this really, the police and them—you really have to rely on the integrity of, you know, the investigative background work that is done—*[Interruption]*

**Sen. Al-Rawi:** But hold on “eh”. If I borrow Sen. Vieira’s exact clause, which I have highlighted myself:

“A certificate shall not be refused except on one or more of the following grounds:

- (a) that satisfactory evidence has not been produced of the good character of the applicant, and in the case of a company of the persons responsible...
- (b) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible, for the management of his business as a moneylender, is not a fit and proper person to hold a...”—character.

How does an administrative clerk deal with fitness and propriety? With the greatest of respect to Sen. Vieira, I think that we are not comparing apples with apples at all. How does an administrative person deal with fit and proper?

**Mr. Chairman:** I would like to suggest, Sen. Al-Rawi—*[Interruption]*

**Sen. Vieira:** But it is a committee, it is not one person.

**Sen. Al-Rawi:** With no judicial mind.

**Mr. Chairman:**—in our system, our justice system, we have an adversarial process. The people who will present the question, whether somebody is questionable or not, is the police or whoever is the prosecutor; the magistrate has no investigatory role as in the civil code you might have, and so it is an entirely different system. If the police have not made a claim that the guy is not of good character, the magistrate will not embark, you might say, on a frolic of his own in order to determine whether or not, and look him in the eye and say, “Look I do not think this guy is—”, you know, I do not think that is the role of our Magistracy or Judiciary on the whole. It is an adversarial process.

**Sen. Ramlogan SC:** I think, Chair, you know, the Government is comfortable with this as is. We think we would like the licensing committee—the committee is not just a clerk alone, there are other members, and the collective wisdom and maturity of the deliberations brought to bear on this matter, we are satisfied they would be fine.

*Procedural Motion*

*Tuesday, February 11, 2014*

With respect to the political point made about this affecting the poor man on the street and so on, you know, we are comfortable with them. “The poor man on the street really—is sou sou and thing de wife throwing to survive and, you know, these registered moneylenders, you know, not many of them land up before them, to be honest. [*Laughter*]

*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. Ramlogan SC:** Mr. Chairman, the amendments as circulated:

9(d) Delete the words, “on summary conviction to a fine of fifteen thousand dollars” and substitute the words “liable on summary conviction to a fine of fifteen thousand dollars.”

9(k) In the proposed section 51(2), insert, after the words “subsection (1)”, the words “or a decision of a Magistrate under section 37A.(2)”.

*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, I was just wondering if Sen. Hadeed’s point on clause 10 is one that we wish to sustain. No? No. Okay. [*Crosstalk*]

**Sen. Ramlogan SC:** “Doh go raise no [*Inaudible*] dey now.”

*Question put and agreed to.*

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

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

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

*Senate resumed.*

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

*Adjournment*

*Tuesday, February 11, 2014*

**7.30 p.m.**

**ADJOURNMENT**

**The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh):** Thank you, Mr. President. I beg to move that this Senate do now adjourn to the 18<sup>th</sup> of February, at 1.30 p.m. On that day, Mr. President, it is the intention of the Government to deal with a Bill to amend the Libel and Defamation Act to abolish malicious defamatory libel. It will qualify on Thursday.

**Sen. Al-Rawi:** It is not on the Order Paper.

**Sen. Robinson-Regis:** It is not on the Order Paper.

**Mr. President:** So that is Tuesday the 18<sup>th</sup> of February you said, Leader? Do you have a question?

**Sen. Robinson-Regis:** Yes, Mr. President. I would just like to know, yes, if it qualifies on Thursday, the requisite number of days' notice that we needed to get in order to pursue this, especially given that it is not on the Order Paper but I would like to know.

**Sen. The Hon. G. Singh:** Thank you, hon. Member. At a sitting of the Senate held on Tuesday, 28<sup>th</sup> January, the Bill was laid for the first time and, therefore, it qualifies for second reading on Thursday, 13<sup>th</sup> February, so therefore it is qualified to be debated on the 18<sup>th</sup>.

**Sen. Robinson-Regis:** May I ask another question?

**Mr. President:** Certainly.

**Sen. Robinson-Regis:** Given the fact that it has not appeared on the Order Paper, does that—I am aware that it may qualify, but given the fact that it has not appeared on the Order Paper, what is the guidance on that, may I ask, please?

**Sen. The Hon. G. Singh:** Mr. President, I am advised that it will only appear in the Order Paper when it qualifies on Thursday and that, therefore, it was laid in the House on that particular date, but we all know that, notwithstanding the fact that it will qualify on Thursday, we have knowledge that this has been in the other place for quite some time.

**Sen. Robinson-Regis:** Even though it appeared, we have knowledge of it. Mr. President, under Standing Order 48, it does not appear to me that the Government is proceeding in the correct manner, with regard to this Bill and I refer the Government to Standing Order 48.

**Mr. President:** I am advised that is the correct procedure. Of course, the truth is that it is not put on the Order Paper until it qualifies and on Thursday it will qualify, so that on Tuesday it will be on the Order Paper.

**Sen. Al-Rawi:** So it is not 15 days from the Order Paper or not on the Order Paper?

**Mr. President:** When it is first laid. [*Interruption and laughter*]

**Sen. Al-Rawi:** This is serious business.

**Sen. Robinson-Regis:** This is serious business and although the AG, just for further guidance, I would like to be informed if it does not appear on the Order Paper, why are we being forced to debate it at this time? [*Interruption*] No, I feel as though we are being forced to debate it and consequently I would like to be guided accordingly. I may accept the guidance that I am given but I still do not feel as though I am satisfied by the explanation that I am receiving.

**Mr. President:** What I am told is that once the Bill is laid, having come from the Lower House, that Members should be aware that that Bill will, in due course, [*Desk thumping*] once more than 15 days have passed, be brought for a second reading and, therefore, it is not a question of when it is on the Order Paper but it is a Bill that is in the course of motion, as it were, to come before this House at any time after the 15-day span and therefore—but it is not put on the Order Paper until the 15 days have elapsed. Hence the reason why you have not seen it on the Order Paper before. But notice of the fact that it was before this House occurred on the 28<sup>th</sup> when the first reading took place.

**Sen. Robinson-Regis:** Mr. President, I still want to raise our objection, but I will be guided by what you have said, but I do object to this course.

**Mr. President:** Well, your position, I would like to say, rather than objection because if it is an objection I would have to overrule it, but your position is understood. [*Desk thumping*] I understand the position that you have adopted and no doubt when we come to review the Standing Orders, it is a matter that you would like to bring before the Chair of that committee, which happens to be myself and we would debate it at that point.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 7.36 p.m.*