

SENATE*Tuesday, June 09, 2015*

The Senate met at 11.30 a.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**PAPERS**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2002. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]

2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2003. [*Sen. The Hon. L. Howai*]

3. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2004. [*Sen. The Hon. L. Howai*]

4. Report on Technical Assistance to the Parliament of Trinidad and Tobago on the Budget Process. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]

5. Concept Note for the Establishment of a Parliamentary Budget Office (PBO) for the Parliament of Trinidad and Tobago. [*Sen. The Hon. G. Singh*]

SELECT COMMITTEE REPORT**(Presentation)****Standing Orders Report**

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. I have the honour to present the

UNREVISED

following

report as listed on the Supplemental Order Paper in my name:

Second Report of the Standing Orders Committee of the Senate, Fifth Session (2014/2015), Tenth Parliament.

WRITTEN ANSWERS TO QUESTIONS

Sen. Camille Robinson-Regis: Excuse me. Madam President, before we go in Public Business, I would like to ask the Government, in particular the Minister of Finance and the Economy, what is the status of the questions to Ministers that we had spoken about getting accurate information regarding several questions that I posed to the Government, and each question which was on the publicity and promotions. The answer that was given by various Ministers was very different, vastly different, from the information that was in the budget documents.

There was an undertaking by the Minister of Finance and the Economy that his Ministry would examine the information that we had in the budget documents and the information that was given by the Ministers. Several months have passed and we have received nothing. Would the Minister be able to give me some information on this, please?

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Could I bring the documents after lunch? I did not walk with them here today, but we have received responses from several Ministries which I have in my possession. It is just that I did not walk with them when I came to this particular sitting, as I was not aware that the matter would come up.

Sen. C. Robinson-Regis: Thank you very much, Mr. Minister. And, Madam President, may I ask the Minister of Sport whether the answer to question 19, a written answer, which was due since January 05 of this year is ready now?

Could I get some answer with regard to that? We have been promised the answer to this question on several occasions, and to date an answer which was due on January 05

is not ready. Could I get some information on that, please?

Madam President: Leader of Government Business.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. The collation of the material and the verification of the material on this is still an ongoing process, and the Ministry of Sport from my last enquiry is still engaged in that process.

Sen. C. Robinson-Regis: Madam President, in the same way that the Members of this House have been working night and day to deal with legislation, could the Ministry of Sport perhaps undertake to work night and day to get this answer because it has been due since January 05, 2015. Five months and we cannot get anything. I do not know what they are collating because it has been due for quite some time, and if the Ministry had been keeping abreast of the various entities I am sure it should have been easy to put their hands on this information. So, Madam President, I am very disturbed by this and if the Parliament is coming to an end on June 17 or before, I do not know, I would really like to get this information before we close.

Thank you.

Madam President: Leader of Government Business.

Sen. The Hon. G. Singh: Madam President, it is clear that any answer provided by a Minister, he has the responsibility for it, and that therefore the collation and the verification exercise of the information is what is currently engaged upon and that the Minister cannot come here with an answer that he cannot verify or be accountable for and he is engaged in that process.

GAMBLING (GAMING AND BETTING) CONTROL BILL, 2015

Order for second reading read.

Madam President: The Minister of Finance and the Economy.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank

you, Madam President. I beg to move:

That a Bill to provide for the regulation and control of gaming and betting and matters related thereto, be now read a second time.

Madam President, this Bill, of course, has been hours discussed in the other place without the benefit of an Opposition, and we are here today with a view to ventilating all the issues so that we may be in a position to ensure that we have good legislation enacted on behalf of our nation.

This Bill is intended to regulate an industry that has serious consequences for family life and vulnerable groups especially for minors. By bringing this Bill, we are seeking to put additional structures around the industry, in particular to control the potential for money laundering and terrorists financing, and this is an issue that we have had to grapple with as far as this industry is concerned, as the industry has continued to burgeon, to expand, to grow and to perhaps permeate almost every corner of our society.

The structures we are looking to put in place are also intended to protect the good name of our country and its reputation, to ensure well regulated investments. In many cases, many companies of international repute, which do business in several countries, have indicated that as far as Trinidad and Tobago is concerned, they are concerned about coming into this jurisdiction to carry on their business simply because the industry is not properly regulated.

In addition, the Bill is intended to protect and assist the poor and vulnerable,

and also to allow our financial services sector to be able to offer services to the industry without jeopardizing and putting at risk their own operations. One of the major challenges we faced with this Bill, Madam President, is that the industry itself because of its very unregulated nature, has found itself in a position where it is unable to access banking services from the banking industry, and already we are therefore seeing the potential for the escalation of money laundering and terrorist financing activities and, of course, to protect the jobs of many thousands of persons.

Madam President, notwithstanding the many negatives associated with the industry, international experience has shown that attempting to stamp out the industry simply drives it on the ground. Our own research in the Ministry of Finance and the Economy has shown that criminalizing gambling may impose more social costs than regulating the industry, and therefore, we recognized the importance of the legislation and, of course, are always open to all the amendments. We seek the guidance of Senate in terms of how best we might be able to achieve this.

The industry itself is quite extensive and growing, as I said, and has serious consequences for family life and vulnerable groups, including minors. The private members' clubs, I am told, employ about 7,000 persons. In fact, there are some estimates which put that figure higher than that and closer to 12,000 persons. Amusement machines that exist in various bars, clubs and so on in Trinidad and Tobago, number at least 10,000 and we believe it could be as much as 20,000 machines that are out there that need to be regulated, and we have put in place a preliminary system to tag, control and manage these particular machines which we did in the last Finance Bill.

Private betting shops amount to about 11 shops with employment of approximately 200 persons in these establishments. The average annual betting is estimated at about \$600 million, a lot of which we believe to be unreported. The Betting Levy Board collects taxes of between \$16 million to \$18 million per annum and the Arima Race Club has a turnover of about \$100 million per annum, and taxes by the Arima Race Club amount to about \$10 million per annum which the Government reinvests back into the Arima Race Club, and this has been a process that has been going on for the better part of the last two decades at least and perhaps longer. The Arima Race Club itself hires about 150 persons and, of course, on betting days that number goes up a bit and then you have the Racing Authority itself which also employs a number of persons.

So overall, the industry has a significant impact on the economy. It affects employment, it affects many persons, all stakeholders, those who interact with the clubs and the amusement machines and so on, as well as people who are themselves involved in offering the services. The attempts to properly regulate this industry goes back several decades. In 2013, the Government made a commitment to introduce a comprehensive legislative framework that promotes responsible gambling, protects consumers and the vulnerable, and prevents criminal elements from infiltrating the sector.

In 2013, what we did is we established a dedicated team within the Strategic Management and Execution Office of the Ministry of Finance and the Economy, and out of this two groups were formed. One was a working group which consisted of representatives from Government Ministries and various agencies, and a civil society group with private sector representatives. The civil society group which we had established, the civil society group comprised a number of persons

including Mr. David Hackett who was the chairman of the group and former banker, and someone from the banking industry whom we thought would have a good understanding and grasp of the ramifications of the industry.

11.45 a.m.

So we had Mr. Hackett as the Chair; we had Mrs. Diana Mahabir-Wyatt, whom we asked to represent the civil society organizations; Mr. Rabindra Jaggernauth of the Coalition of Service Industries, who has a very strong ICT background—and part of the way in which this industry has to be controlled is by way of the implementation of ICT solutions—Miss Lucyann Henry from the Institute of Chartered Accountants; and Mr. Oswald Williams representing Tobago. So those were the members that we had in the civil society group with the intention of putting together a piece of legislation that we thought would be robust enough to help us to manage and control the industry properly.

We also conducted extensive research into the industry across several jurisdictions to ensure that the output of the process would meet the international benchmarks that we require. We obtained guidance from the UK Gambling Act, 2005; the Betting and Gaming Lotteries Act of Barbados; the Betting and Gaming Lotteries Act of Jamaica; the Gaming Machine Act, 1992, of South Australia to help us with the amusement machines; the Casino Act of South Australia; the National Lotteries Act—our own national Lotteries Act—as well as we went through the draft proposals of the TTRA, the Trinidad and Tobago Racing Act.

The civil society and the working sector groups provided critical input into the local context and specific issues that had to be addressed in Trinidad and Tobago. By 2014—and I give this just as background to the work that had been done to get us to this stage with the legislation, by the beginning of 2014, the team

had created a discussion paper which was to serve as a central reference guide as work continued to finalize the legislative and regulatory framework that would govern the gambling, betting and gaming sector.

With the objective of ensuring openness, transparency, accountability and involvement, the discussion paper was made available to key stakeholder groups with interest in the gambling industry; and the strategic management office and the civil society group began a series of focus group meetings with various stakeholders.

Madam President, I would just like to itemize some of the organizations that we met with, stakeholders that we met with, in order to receive their input in constructing this legislation. In total, we had about 55 meetings with various groups in addition to the groups which I will outline. The meetings were held with the Members Clubs Association, which has a very significant input into this legislation; the Amusement Gaming Association, the Bankers Association, the Trinidad and Tobago Chamber of Commerce, the Bookmakers Association, the Trinidad and Tobago Racing Authority, the Betting Levy Board, the Racehorse Owners Association, the Racehorse Trainers Association, the Jockeys Association, the Arima Race Club, the Financial Intelligence Unit, the Tobago House of Assembly, the Tobago Hotel and Tourism Association, the Tobago Chamber of Commerce, the Rape Crisis Society, Families in Action, People Helping People, and a number of other individual organizations as well as several of the individual members' clubs.

Stakeholder input was used to further refine the gambling control policy, and a consultant was then retained to prepare the drafting brief which was used to produce the gambling control Bill. So, I would like to, therefore, express my

appreciation to all of the individuals who were, and organizations which were involved in preparing the draft Bill that we have before us in an attempt to deal with this burgeoning industry with its many concurrent issues which we have to manage.

What we sought to do, and what I sought to do, in the interest of time in order to perhaps get a piece of legislation to the Parliament, was to look at the implementation of the control mechanism in phases. So what we have sought to do is to deal with the most ubiquitous and certainly the most widespread and uncontrolled part of the industry which is the casinos and the private members' clubs. We have left the TTRA, the Trinidad and Tobago Racing Association, separate because it already has its own piece of legislation. We have also left the Betting Levy Board out, again, because they have their own separate piece of legislation, and we have left the National Lotteries Control Board out which also has its own piece of legislation.

The intention over time would be to have an all-encompassing piece of legislation that would cover broadly the entire industry. For the time being, however, the area that is of the most significant concern and the area that we sought to focus on with a view to ensuring that we bring proper control, and we certainly bring it under the aegis of the AML CFT regime, is the area of the casino and the amusement gaming machines.

In terms of the overview of the piece of legislation that we have before us, Madam President, this Bill seeks to provide the establishment of a gambling control commission for the purpose of regulating this part of the gambling sector that I have identified. The commission will establish a licensing framework and what we have sought to do is to expand and develop that licensing framework

which will aid in minimizing the potential for money laundering and terrorism financing due to the stringent criteria that will have to be met by anyone desirous of obtaining a licence permitting them to work in the gambling sector.

So what we have sought to do here in this framework is to put measures in place to address the industry's vulnerability to money laundering and terrorist financing; to prevent criminal and corrupt elements from infiltrating the sector; to protect the vulnerable including minors and problem gamblers; and to ensure that gaming is conducted honestly and fairly. And you will see in the legislation that there are a number of requirements in terms of placement of odds and advising of payments and winnings and so on—the intention is to ensure that the consumers, the bettors, are in a position to understand what the odds are and what it is they are doing and getting involved in, in a more informed manner.

The third thing that the Bill does is also introduce stringent measures for the protection of the vulnerable, including minors and problem gamblers and for the protection of consumers. So I will deal with that as we go through some of the areas of the Bill.

It is also recognized, too, that this sector has the potential to contribute meaningfully and positively to the national economy if regulated effectively by creating employment and increasing tax revenues. So the intention here is to ensure that this particular segment of the economy makes a meaningful contribution to the overall economy while mitigating the negative effects of having such activities take place within the economy.

So, Madam President, I would not go into all the different parts of the Bill at this moment. I will deal with some of the key areas as I go through, but suffice it to say that the conduct of the gambling which falls under this legislation shall be

unlawful—and which also falls under other pieces of legislation that we have—shall be unlawful except pursuant to a licence issued by the regulatory authority. And we are creating a restrictive licensing regime in this case and an independent regulatory authority which we are calling the Gambling (Betting and Gaming) Control Commission which will issue licences to individuals.

Parties which will be affected by this Bill will be the casinos currently operating as casinos under the nomenclature of private members' clubs and all associated tables and devices. In addition, casino operators, owners and key members of staff will fall under this legislation: persons who sell, import, supply or distribute gaming machines; persons who fabricate, assemble, programme, service, modify or repair equipment; bookmakers and promoters as well as sport betting.

Another key area of the Bill, as I said, which we will expand on a bit later is the protection of the vulnerable. Minors and problem gamblers are protected by specific provisions in this legislation. There will be an absolute restriction on gambling by minors and the employment of minors in gambling establishments, and we have established a rehabilitation fund which will support initiatives to help gambling addicts and their families via awareness, education and rehabilitation. So what we have sought to do is to put a comprehensive regime in place that will address some of these very negative effects of this particular industry.

Madam President, in terms of the presentation on this piece of legislation, I will deal with it under six broad headings. The first dealing with the regulator and the regulator that we intend to put in place, how that would be structured; the licensing regime that we will put in place; the measures to protect the vulnerable; the measures to protect consumers; what we are doing with respect of anti-money laundering and what we are doing as far as enforcement of the legislation is

concerned.

So, if I could start with the first one, Madam President, the regulator. What we are looking to do with the regulator is, we will have a commission which will be managed by the board consisting of nine persons, and the gambling control commissioner will be the Chief Executive Officer of this particular commission. The focus of this commission will be to regulate and control the operation of gambling in Trinidad and Tobago, and to address the harmful and negative effects of gambling. The regulator will be responsible for licensing, for supervision, for compliance with AML, CTF and so on; enforcement and the collection of fees, levies, fines and penalties on behalf of the Government.

The regulator will have the power to license the establishments and their principals; to ensure the fitness and propriety of key personnel in these establishments; to supervise these gambling establishments to ensure robustness of the AML, CTF frameworks and their compliance with laws, regulations and guidelines, and the regulator will ensure that there is a proper levy collection regime in place. They will deal decisively and quickly with unscrupulous operators. They will also—[*Interruption*]

Sen. Dr. Mahabir: Thank you very much, hon. Minister, for giving way. I just need clarification. I do not have the regulations which are supposed to accompany this particular Bill. How soon can I expect to get these regulations which will instruct the regulator as to how to conduct his affairs?

Sen. The Hon. L. Howai: Okay. The regulations have been developed and we have the draft regulations, and we can also share those with you now, based on the regulations that we have. And also to ensure that consumers are protected and licensed activities are conducted in a fair and honest manner. [*Crosstalk*] Yeah, I

can arrange for copies to be distributed.

Regarding the regulator and the licences that the regulator will be able to provide, these licences will have the power to grant, suspend, amend or attach conditions to or revoke licences, governing all aspects of the industry; to impose administrative penalties on the licensee and will have the power to verify the background, character and reputation of applicants and their associates or employees; compel production of documents, records and information in the custody or control of a licensee; require verification of income and other matters, and ensure implementation of an in-house computerized system approved by the commission to facilitate examination and inspection. These are very critical things or elements of the controlled framework that we are seeking to put in place.

The regulator will have extensive powers to inspect books, records and documents in any format, license premises and gambling devices and equipment. So they will be able to go in and to check and ensure that these machines comply with the standards that ought to be in place for these types of machines.

12.00 noon

They may also seize or impound any betting or gaming machine or gaming device for examination or inspection and may undertake any activity necessary to assess whether an offence is being committed under the Act. Basically, the Commission will have the overall responsibility for the overall management, together with the required staffing, to ensure proper enforcement of the legislation that we will be seeking to put in place.

The second area that I mentioned is the licensing regime. How is this licensing regime going to be established, what is going to happen, how is it going to operate? A restrictive licensing regime will be recreated. The Commission will

be given extensive licensing and inspection powers, as well as powers to impose a range of administrative penalties on licensees for compliance failures. The Commission also has the power to issue licenses for premises owners, operators, suppliers and service providers and key employees of betting and gaming establishments.

So the framework will include from application right through to licensing and it will include all of the investigations, the objections, the licence renewals, the suspensions and revocations, the process of appeal, and so on. So what we have sought to do is to put an overall licensing regime that is extremely comprehensive.

There are a number of different types of licences that will be given by the Commission. There will be one licence for gaming, a gaming owner's licence, which would be a separate licence for ownership of a gaming establishment. Then there will be an operator's licence for the operations, because the ownership may be separate to the operation, bookmakers licence, promoters licence, gaming machine operating licence, gaming machine distributor licence, technical operator's licence, premises licence, and there may be other types of licences that the Commission may decide that it wishes to introduce as we go through the process of continuing to manage this particular industry.

In order to get a licence we have put in a specific provision in the legislation that the applicant must be a company incorporated under the laws of Trinidad and Tobago for a gaming owner's licence. For the other types of licences, the applicant must be a person who is 18 years of age or older or a company. So what we have sought to do is, again, to put in place a regime that would allow us to be able to properly licence and regulate the industry as we go forward.

We will also require extensive background investigations into the licensing

of any particular establishment. And these background investigations would include carrying out extensive investigations of each applicant and of any proposed existing associate or employee who must assist in the investigation. They would be required to submit to interviews; provide information and documents requested by the Commission; to have their photograph, finger and palm prints taken. So this will be a much more extensive set of—in fact it is in keeping with AML/CFT requirements. Most people who have had to be involved in the management and operation of anything that deals with AML/CFT will be familiar with the need to have photographs, finger and palm prints taken and facilitating inspection and assessment of premises.

I should say, Madam President, that even in terms of the taking of finger and palm prints, and so on, I myself have had, when I was in the financial services sector, to submit myself to actually going and giving finger prints and palm prints because of the need to open a new subsidiary offshore. And once you go into that kind of a business, you need to submit yourself to that kind of arrangement.

Now, there will be a process for objections. Many people could object to these establishments operating in their areas and we, therefore, want to have a process where objections could be very properly heard and where each person in a community has the opportunity to be able to make a full representation where they object to the granting of a licence in any particular area. These objections will be heard in public and they will be as transparent as possible and we have put arrangements in place, in the legislation, to deal with that.

Objections may be mounted by residents, by business owners in the area, by school principals, literally by anyone, teachers, parents of a student, representatives of any religious group in the area, municipal or regional corporations, in the case

of the THA, the THA itself by normal individuals, or anyone who has a concern with the establishment of this particular operation in their community can object to it and there will be a process where the objections will be heard and they will have an opportunity and it will be covered. It will be public so it can be covered by the media, and so on. So people understand the nature of the objections that persons may have.

As part of the licensing regime also, I want to say that the Commission may suspend or revoke a licence where it has reason to believe that activities are not being conducted in accordance with the condition of the licence, the licensee or person who exercises a function in connection with the licenced activities has been convicted of a criminal offence or where the licensee may be unsuitable to carry on the licenced activities or where, for example, it is deemed that a review is appropriate. So it is not just that we say that okay, there are specific things, the person is being convicted, and so on, so you are going to do a review. The Commission could decide to do a review simply because it decides that, based on feedback it is getting, it believes that it is appropriate for it to have some kind of a review of what is happening, with respect to the operation of any particular establishment in any area. This is a very important piece of the puzzle that we have with us to help us to be able to manage this industry in a much better way.

Of course, following the review, the Commission may give the holder of the licence a warning, can attach additional condition to the licence, can make, remove or amend the condition or an exclusion attached to a licence. In serious instances, the Commission may suspend the licence for a period of time, revoke the licence or impose a penalty. So, what we have done is we have sought to put a framework in place, as I have said, that allows us to be able to manage this industry properly.

We also have several clauses that deal with the grounds for revocation. So what we have done is we have sought to balance, on the one side the need to manage and control these institutions properly and at the same time, what we have sought to do is to be very transparent, in terms of the conditions under which they will operate and their rights within the legislation and their responsibilities to the community as they continue to do their business.

The grounds for the revocation, which we have listed in the legislation, includes failure to meet the stipulated licence criteria, failure to comply with obligations under the Act, failure to pay fees or levies, provisions of false, misleading or inaccurate information.

So if information is provided, which causes you to give a licence that you subsequently found out is incorrect, those are grounds for removal of the licence. If the licensee goes into receivership or liquidation, where the interest of the customers are threatened—this is an important requirement—we feel that if you do not comply with the controls that we have put in place that customers are being taken advantage of—certainly we would have the right to remove their licence; and where the licensee, of course, has been convicted of a criminal offence. Of course, the licensee see must be notified and given an opportunity to make representations in writing and shall have the right to appeal to the High Court. So we have sought to balance the legislation as far as possible and to put all the controls necessary into the legislation.

In terms of the protection of the vulnerable, we have put an absolute restriction on gambling by minors and this is defined as persons under the age of 18. Again, these are things that we can discuss because when we had discussed this in the Finance Bill, when we were doing the Finance Act last year, one of the

things we had discussed is whether that age should not come down to a lower level. These are things that, of course, we will be opened to having a discussion about and whether in fact the age requirements that we have put in place are requirements that everyone is comfortable with.

One of the things that we have also identified is that, in terms of the interaction with the minor, which would be deemed to be, in a sense, involving a minor in gambling will include sending materials, advertising or providing information about gambling to a minor, allowing a minor to enter licenced premises and employing a minor to perform any function relating to gambling or to employ a minor to perform any function at the premises of a casino gaming hall, gaming lounge or betting shop. What we have sought to do is to make it as broad as possible to capture that requirement to exclude minors from participating in these particular activities.

In terms of problem gamblers—and this is something that we have recognized as something that we have to put some kind of arrangement in place for—we have two funds that we have sought to implement as part of this legislation, a rehabilitation fund and a development fund. The rehabilitation fund will support initiatives by NGOs to help persons and families suffering the effects of gambling addiction through preventative measures such as awareness and education programmes and also by way of rehabilitative measures which would include a wide range of programmes.

The development fund would provide assistance for sports development, arts and culture and social and community development. So the development fund will be concerned with the community as a whole. The rehabilitation fund will deal with specific individuals, as far as the need to rehabilitate them are concerned.

The funds would be managed by a committee of between five and nine members appointed by the Minister and will present audited accounts and report to the Minister annually. The Minister will in turn, of course, lay their reports in Parliament. There will be proper supervision and oversight by way of the Parliament itself, of what is happening as far as the regulation and control of the industry as a whole.

What we have done is we have identified that we will make contributions or require contributions of two and a half and 5 per cent of revenues to be placed into these funds which will cause them to develop, to allow them to be able to meet the needs of the problem gamblers and persons who are caught up in this particular industry.

One of the things also, in terms of consumer protection, as I go into the other area, is the question of implementation of codes of conduct. The Commission will create codes of conduct and policies to ensure fairness in the conduct of gambling and inform consumer participation governing matters such as advertising of gambling, provision of information, so customers can make informed choices, and publication of gambling odds. You will see reference to that or clauses that deal with that in the legislation.

It shall be mandatory for a gambling establishment to make available to patrons the rules of every game at prominently accessible locations on the premises, to prominently display minimum and maximum betting wagers for every game, and to provide such guidance and assistance for patrons as to enable them to decide on the merits of playing a game as decided by the Commission. So it is a fairly broad range of controls and requirements that we are putting on the industry, in terms of ensuring that there is fairness in the industry.

12.15 p.m.

We go further to make cheating, of course, a criminal offence, and in particular, cheating by way of deception or interference with the process by which gambling is conducted or with a gambling machine or device. So we have made that into a specific requirement.

So, Madam President, the AML and counterterrorism financing requirements of the legislation are very, very comprehensive. Again, this is an area where there is tremendous possibility and potential for money laundering and that is why in industry, in jurisdictions throughout the world, there is a requirement that this particular industry be regulated and that it falls under our AML/CFT framework.

It is very, very important to be able to do that, given the fact that quite a tremendous amount of cash, and a significant amount of funds actually pass through this industry on an ongoing basis.

So our AML/CFT provisions deal with the suitability of applicants. It deals with the ongoing assessment of the suitability of licence holders, and it deals with the continuing reconsideration in light of any kind of criminal activity that might be identified as associated with these institutions, and also ensuring that there is compliance by licensees.

So there is a broad framework which is required for compliance which I would not go through all of this, but it is very important for us to ensure and to prevent organized crime from infiltrating the industry. There is a strong belief, Madam President, that the industry has been infiltrated by organized criminal elements, and the intention is through the mechanisms which we have established, including very stringent application criteria, in terms of the applications, as well as

fit and proper criteria which we are bringing forward from the financial services sector, to ensure that persons within the sector comply with all of the requirements; all the fit and proper requirements.

Some of the provisions, of course, will affect owners, directors and significant shareholders. You will see in the legislation references to significant shareholders who hold more than 5 per cent of the ownership of a casino or a similar gambling establishment, will be required to be determined fit and proper before we allow these persons to own that percentage share, in such an establishment. Of course, all of the associates, trustees, senior managers and key employees of the institution. So key employees of the institution will also be subject AML/CFT requirements, and they will be subject to detailed due diligence by the commission to ensure that the person is fit and proper in terms of—by considering their integrity, fairness, honesty and reputation, competence, diligence and capability, and this is very important. It is not just that you want to do it right, but that you have the capacity to be able do it right; soundness of judgment as well as their own financial soundness.

So, Madam President, we will be looking in detail and the legislation has extensive clauses which deal with ensuring the financial soundness and strength of the institution; the nature and scope of its business; and the fitness and propriety of all its key owners.

What we have done here too, Madam President, is we have put the gambling and control commission to have supervisory authority on the AML/CFT issues related to the industry. The applicants for licences will be required to comply with the compliance measures imposed by the commission. The commission will, of course, be able to implement this particular requirement.

We have, therefore, put very strong enforcement requirements into the legislation and, of course, by putting this in, there is a requirement for a three-fifths majority because of the fact that you will be required to enter into premises and to be able to have access to books and records of persons who carry on business. So there is the right to inspect licensed premises, the right to monitor their activities and the right to examine documents, records and devices.

In terms of enforcement, apart from entering and inspecting the premises, of course, you could examine the machines—again, we have listed a number of these things in the legislation—take copies of any document, record information as required, monitor and record the collection of funds. And as we go through this process, the intention is over time to introduce an electronic monitoring system that would allow us to be able to keep close tabs on what exactly is happening with respect to many of these machines, gaming machines, and so on, and to ensure that the taxes are collected.

In some jurisdictions as soon as you actually put the money into a machine and you pull the lever, part of the money goes immediately on credit, to the tax authorities and so on. So immediately, there is collection of revenue as a result of the fact that as you get more and more sophisticated, in terms of the management and operation of these particular industries.

So, those are some things that will require or will allow us to be able to manage this industry in a much more proactive way. So, Madam President, what you are seeing is that as we go through this piece of legislation, what I have sought to do is without going through each detail of each clause of the legislation, to give a broad overview of all of the specific areas which are captured by the legislation and where the legislation provides the opportunity for us to be able to manage and

control this industry in a better way than it has ever been done before. Really, we need to be able to do that, given the fact that these gaming establishments are now—they are everywhere in Trinidad and Tobago. Every nook and cranny has a new establishment opening up, with new gaming machines, whether it is in a bar, whether it is in a private establishment, and what we are seeing more and more, is that young people are frequenting these places, for other services and because the machines are there, they become susceptible to it. We need, therefore, to bring a control mechanism in place.

So we will also have very stringent enforcement requirements for licensees, to permit entry to authorize persons for purposes of carrying out their duties. We will also be able to seek a warrant from the courts to facilitate the execution of their duties. The Act contains provisions for the issue of a warrant to enter licensed premises where necessary.

So, we have put these additional requirements in place, and we have also put criminal penalties in place. So it would be a criminal offence to conduct specific activities in the absence of a licence or contrary to licence terms and conditions. In the absence of a licence, it will be an offence to operate a gambling establishment or to manufacture, program, modify or repair a gambling device, and to supply and distribute gambling devices without a licence. It will also be an offence to obstruct or fail to cooperate with an authorized person in the exercise of his power, or to make false statement with the intent to deceive, or to present a false document.

So we have broadened all of the range of penalties, and we have put criminal penalties on cheating, on offering betting or gaming activities in public places, in allowing minors to participate in gambling; and employing minors in gambling establishments.

We have also addressed the issue of levies and fees. What I have done in establishing the levies and fees, Madam President, is that I have put the existing fees which the Parliament had approved previously, as we moved incrementally to bring this industry under control. So the existing schedule of levies and fees, are the levies and fees which I have brought into this piece of legislation, but we have the opportunity to be able to amend that as we go along, but I thought the place we should start would be where it exists at the present time.

So that is what we have done, but we will be looking at it with a view to considering how best we can implement or apply levies and fees which maximize revenues for the government out of this entire process.

Finally, Madam President, there is the question of transitional provisions. We have had to make transitional arrangements to allow for the gradual movement of existing clubs and organizations into the ambit of this piece of legislation. So we have created transitional provisions which permit existing gambling operators to continue to carry on until they are issued licences by the commission. This would include the registered private members' clubs, various promoters and amusement game operators.

The existing establishments will have three months from the commencement of the Act to notify the commission of their existence. They must then apply for an operational licence, within a time frame established by the commission, and can continue operations until the commission decides whether to approve their application.

Applicants wishing to establish a new gambling operation cannot commence operations until licensed by the commission. So new ones will not be able to start, unless they are licensed, but existing ones will be able to continue for a period of

time, after the commission has been established, in order to facilitate their smooth incorporation into the requirements of this legislation.

There are some consequential amendments, which we also have to make, Madam President, and the First, Second, Third and Fourth Schedules of the Gambling and Betting Act, Chap. 11:19, will be repealed and the Gambling and Betting Regulations in the Act, will also be repealed, and all licensing matters relating to gambling will be addressed under this new proposed legislation.

So there are some consequential amendments, which will arise as a result of this, and we will put these into effect as we start the process of repealing the old pieces of legislation and putting this new piece of legislation in place.

So, Madam President, in conclusion, this Bill will see a robust governance structure being put in place, with strict licences and enforcement arrangements, in line with public policy objectives and international standards, with stringent measures in place to address the industry's vulnerability to money laundering and terrorist financing; for preventing criminal and corrupt elements from infiltrating the sector; in protecting the vulnerable including minors and problem gamblers; and in ensuring that gaming is conducted honestly and fairly.

The emphasis on this Bill is on ensuring that criminal and subversive elements do not infiltrate the industry, that we protect consumers, and that we protect the vulnerable. In addition, Madam President, we are seeking also to maximize our revenue take from the industry, given the very significant and widespread betting that takes place, or gambling that takes place throughout Trinidad and Tobago. So, Madam President, we are seeking to control this industry, which has the potential to create employment, to generate revenue. It is considered legitimate entertainment, only if we are able to remove the negative

elements from the industry as a whole. If we are able to ensure that consumers rights are protected, that the consumer knows that they can participate in a way that is fair and equitable.

So, with those words, Madam President, I beg to move. [*Desk thumping*]

Question proposed.

12.30 p.m.

Sen. Faris Al-Rawi: Madam President, it gives me great pleasure to rise to defend all of the interests involved in prosecuting the very best laws for Trinidad and Tobago. Madam President, I am shocked that the hon. Minister of Finance and the Economy could stand in the Parliament of Trinidad and Tobago today, and pilot a Bill which has such far-reaching, important, dire and special consequences in breach of what was told to the Parliament yesterday.

This Bill which requires a three-fifths majority, which is required to be proportionate in a society that has respect for democracy within the meaning of section 13 of Constitution of the Republic of Trinidad and Tobago has had the most scant regard and courtesy paid to it by the Government of the Republic of Trinidad and Tobago. [*Desk thumping*] The Minister knows very well that the Leader of Government

Business told this Parliament yesterday that we would be returning to Parliament today to move that this Bill go to a joint select committee of the Parliament.

Sen. G. Singh: Madam President, would you allow the Senator to give way? I never told the Parliament that, and I want you to correct it.

Sen. F. Al-Rawi: Madam President, when Camille Robinson-Regis, Senator as she is, rose to clarify on the adjournment of the Parliament, what the

business that we were doing today is, she said—and she did not put the details on the record last night out of courtesy, and the Leader of Government Business had to apologize for what he determined was the scant regard paid to Sen. Camille Robinson-Regis as the Leader of the Opposition Bench, because he did not speak with the Opposition, but had spoken with all of the Independents to indicate that this Bill was going to go to a joint select committee. That is a fact.

Now, why do I bring this out into the public domain? I bring it out because I am upset, Madam President. Why am I upset? I read in the newspapers this morning a quotation by the Leader of Government Business: Parliament is not just for once a week, you have to come and work in the Parliament. He does not know why Senators are upset to come and do the people's work.

Well, Madam President, today is my 108th contribution in this Parliament, and I take the work of a legislator very seriously [*Desk thumping*] and the record that the Opposition has is one of complete cooperation on laws that stand to benefit the citizens of Trinidad and Tobago.

We sat here for nearly 13 hours yesterday dealing with the Motor Vehicles Authority and Road Traffic Bill legislation. We were told to prepare for the Waste Recycling Bill next on deck.

Sen. Maharaj: Madam President, Standing Order 35(1), was is the relevance of my friend's lament here about his work to this Bill?

Sen. F. Al-Rawi: Thank you for the explanation on 35(1).

Madam President: Senator, I recognize Al-Rawi's introductory remarks, but Senator please be guided that you need to confine yourself to the Bill before us.

Sen. F. Al-Rawi: Thank you. Madam President, thank you for your protection.

Sen. Hadeed: You are gallerying.

Sen. F. Al-Rawi: This is not gallery, Sen. Hadeed, this is serious work. [Crosstalk] This Bill is 11 parts long, 94 clauses long and the Government of Trinidad and Tobago has engaged in the most irresponsible conduct in relation to piloting this Bill. [Desk thumping]

Sen. Maharaj: Standing Order 35(5), Madam President. My colleague on the other side is imputing improper motive on the part of the Government.

Madam President: Senator, you know it is out of order to question the conduct of a Senator in the Senate, so please confine your observations to the Bill before us.

Sen. F. Al-Rawi: Madam President, to stand here and debate this Bill today is an act of gross irresponsibility [Crosstalk] for anyone who has regard for the process of the making of laws in Trinidad and Tobago. [Crosstalk]

Hon. Senator: Walk out! [Crosstalk]

Sen. Robinson-Regis: You “cyant” tell us what to do. We “cyah” talk?

Sen. F. Al-Rawi: You know, Madam President, I find it amazing that the most prolific and loud cross talkers in this Parliament have yet to cross four speeches in Parliament, you know. [Desk thumping] I find it amazing that the loudest people in this Parliament do not even have the distinction of making two digits in terms of contributions.

Sen. Maharaj: Standing Order 35(1), relevance again. What is the relevance?

Sen. F. Al-Rawi: In relation to this Bill, Madam President, the process, sure—[Interruption]

Madam President: Senator, we recognize the excitement this morning, in

light of the abundance of work that is before us, but I would urge you to, you know, connect your points to the Bill at hand.

Sen. F. Al-Rawi: Thank you, Madam President. Madam President, do you know what a jack-in-the-box is? You wind it up and it springs out of place. Yes, Madam President, very interesting sorts of examples we are seeing here today.

Sen. G. Singh: Stop talking about Mr. Warner like that. [*Laughter*]

Sen. F. Al-Rawi: I am glad that my friend opposite has humour. Madam President, the first point is that we as legislators cannot sit irresponsibly to engage in a process of serious legislation without doing the homework.

Now, the hon. Minister said in piloting this Bill—and I am amazed that somebody as capable as the hon. Minister of Finance and the Economy would stand here with a deadpan serious face and come and tell us that there is concern for people of Trinidad and Tobago—minors are at risk in the Bill; that we are dealing with a dedicated team; that we have put together the most important consultation exercise, 55 meetings and listed a whole record full of people who were consulted.

Madam President, the people who were not consulted on a very serious measure like this that I think ought to have been consulted, because we desire to support this legislation—let me make it clear, the PNM's position is that when facilitated with the opportunity to consult that we support anything which leads to better lives for the people of Trinidad and Tobago.

In the checklist of persons consulted by the hon. Minister, it is a stark observation to be made that the Opposition of Trinidad and Tobago and the Independent Bench were not invited, if only by way of courtesy, to engage in a process of legislation, making legislative scrutiny and policy consideration on a

Bill as important as this. [*Desk thumping*] It is also stark that the trade unions do not feature in the list of persons consulted. [*Desk thumping*]

Madam President, it is important that people understand that the making of law requires a breadth of consideration under what is referred to in law as a veil of ignorance and for a benevolent purpose. We in the PNM certainly believe that it is high time for the gaming and betting industry—as would now be called the gambling industry, the casino industry—to receive the fillip and benefit of proper legislation. [*Desk thumping*] We must do so, not only because of the very many at-risk persons who are populated who number people including minors; people including persons with addictions, beyond that the very workers who are the heart and soul of the industry.

I, in fact, see in the premises here this evening, this afternoon, this morning—I am at a blur because of yesterday—afternoon—I now see in the premises of the Parliament this afternoon—permit me to acknowledge a number of very attractive young ladies and young men, hardworking persons I know, who I am told come from the gaming industry. I am sure they are very interested as members of the 7,000-odd workers involved in this industry to understand that they would have the benefit of someone who is serious enough to care about whether their bank accounts can receive money from their employment; whether they can buy a car by way of a loan from a bank and not by way of accumulated savings; whether they can feed their children with regularity by way of the safe system of banking operations supervision.

You see, at present, the workers of the industry are not afforded the opportunity to engage in the mainline, mainstream banking sector because of the FATF and FIU considerations against money laundering and against crime and

against financing of terrorism. And so, there is a whole sector of them who are locked out of mainstream operationality and that is a dangerous thing. They are being prejudiced by the Government's action in bringing as important a piece of legislation as this seven days, six days before the dissolution of Parliament—six days before the dissolution of the Tenth Parliament of the Republic of Trinidad and Tobago.

This serious Government that has been involved in serious consultation, that treats workers' rights seriously, says to the people of Trinidad and Tobago—[*Crosstalk*] other than by way Sen. Hadeed's generous crosstalk; other than by way of his grumblings and mutterings on the floor way; other than by way of that—this serious Government says to the people of Trinidad and Tobago: "Take us seriously because we have had no consultation with the legislative process."

So, what is Opposition to do this morning? What is the FIU's position on this, Madam President? What is the Central Bank of Trinidad and Tobago's view on this, Madam President? Who is the consultant who was hired to draft this Bill? Where does the consultant come from? What were the terms of reference? What is the policy consideration that was put forward as the input into the Bill? What is the proclamation estimation for this Bill?

Madam President, let me jump into a few of the provisions of the Bill. I literally—on the word of the Leader of Government Business—did not get to read this Bill into full depth until I sat in the Parliament this morning. So, now we are in a position where we cannot even rely on the word of the Government, because in a joint select committee debate, one speaker stands up from each bench usually. It is referred to a committee, we do the work in the committee and we come back with a report of the Committee.

We have assisted this Minister of Finance and the Economy on many occasions, and if he has the guts today to stand up and admit to the amount of assistance he got from Members of the Opposition in the committees on insurance, on securities, in particular, he would tell you that we do yeoman service, because we are pleased to do it. But, no, Madam President, we have been denied that opportunity. And so, today, in looking at this Bill, Madam President, let us look at a few of the provisions of this Bill. It is architecturally comprised of 11 parts, five schedules with 94 clauses.

The Minister said he was not going into the nitty-gritty of the Bill. Let me say that he should have and let me say why. This Bill is a three-fifths majority exception piece of law, which infringes upon the right to property insofar as seizures of equipment and property can happen under the Bill. It infringes against the right to self-incrimination in certain aspects impliedly; it infringes against the right to the privacy of your information and personal life insofar as video cameras, et cetera are employed; and it also deals with due process considerations under the Constitution of the Republic of Trinidad and Tobago. It is a requirement, if you are serious about the law, to stand up and say how the Bill infringes the Constitution of the Republic of Trinidad and Tobago, and it must be done with adequate attention to detail, because when we are factoring the proportionality and reasonableness of the Bill, we must know where to look in the considerations.

Madam President, we are looking at the definition section of the Bill. I want to say that the definition section is quite well put out. This law is law which considers the framework structure for this Bill. I want to ask the hon. Minister of Finance and the Economy, if he thinks it important to speak to clause 66 of the Bill. I am just going to jump ahead to some of the big areas. Clause 66 of the Bill

is under Part VI of the Bill. It is entitled:

“TAXES AND FUNDS

A licensee who holds a Gaming Owners Licence shall pay to the Commission the following taxes on gambling tables and other devices:”

And then we go into the usual numbers that we see and names that we see: baccarat table, blackjack table, Caribbean stud poker table, dice table, poker table, roulette table, rhum—the famous one which I am yet to know what this actually means—the sip san table and the other tables and devices.

12.45 p.m.

Why are these familiar? Because they appear every single year in the budget. What is the budget? Is it a money Bill under section 66 of the Constitution of the Republic of Trinidad and Tobago? Is one allowed to raise a tax in a Bill which is as prominent as this one, without having a certification from the Speaker of the House of Representatives as to whether this is a money Bill or not, because there is no certification in this Bill. Certainly the hon. Minister of Finance and the Economy should consider it. Perhaps he may try to fall on the definition in section 66 of the Constitution which says that the money Bill must only deal with taxes, but he knows that there is judicial interpretation which can imply into that that a substantial aspect of it can be deemed to be that. That is an important issue.

Has the hon. Minister, in considering the architecture of this Bill and prescribing regulations, factored that this Bill does not allow for an offence to be attributed to regulations? Let us look to Part X of the Bill, Miscellaneous Provisions:

“The Minister may make Regulations prescribing anything necessary or convenient for carrying out or giving effect to this Act.”

Where is the clause that will attenuate or amend the application of section 16 of the Interpretation Act, which says that in subsidiary legislation or statutory instruments, so considered subsidiary legislation, which rules and regulations are, that unless you prescribe a penalty in the parent legislation that you are confined to levying the whopping sum of TT \$500 for breach of a regulation.

The hon. Minister had the gall— the gall— to stand and tell us, “Well, we will circulate the regulations”.

Sen. G. Singh: He is a Frenchman, “de Gaulle”. [*Laughter*]

Sen. F. Al-Rawi: When does the Minister plan to circulate the regulations?

Sen. G. Singh: It is a draft.

Sen. F. Al-Rawi: I hear Sen. Singh saying it is draft, it cannot be circulated, without anticipating a Bill under the Leader of Government Business’ name. He knows very well that he has circulated regulations on a Bill to be considered by this Parliament. So what is it? Is it that he is playing smart with something that he ought not to play smart with?

Madam President, we have serious legislators in the Parliament. We are committed to delivering results for the people of Trinidad and Tobago; that is what we are here for. We are not here on any grand platform. The work of the Parliament requires consultation, preparation, intellectual space for consideration and then reporting, and certainly delivering something which can withstand the scrutiny of the court of Trinidad and Tobago.

Is it fitting that the offences prescribed in this legislation include offences on summary conviction of up to \$5 million? Madam President, is it fitting that an argument against excessive criminalization can be levied against this Bill? And is it not true that the hon. Minister of Finance and the Economy knows the effect of

excessive criminalization.

The hon. Minister certainly participated in some excellent work which we as a Senate were privileged to do in Joint Select Committee, in considering the securities legislation and the insurance legislation in understanding the parameters of excessive criminalization.

Let us look to the offences. When we look on the excessive criminalization issue, just by way of example to one clause alone, let us look at clause 84(2) of the Bill:

“A person who makes a false statement with intent to deceive or makes use of any book, account,...which is false commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for five years.”

Madam President, let us look to another issue. Let us look to clause 78 of the Bill. Clause 78 of the Bill deals with remote facilities. Listen to this one:

“(1) A person commits an offence if he does anything in TrinidadandTobago or uses remote gambling equipment situated in TrinidadandTobago for the purpose of inviting or enabling a person in a prohibited territory to participate in remote gambling.

(2) The Minister may by Order, subject to affirmative resolution of the Parliament, amend this section for the purposes of committing remote gambling.

(3) For the purpose of this section—

(a) ‘prohibited territory’ means any country outside of TrinidadandTobago; and

(b) ‘remote gambling equipment’ means electronic or other

equipment used by or on behalf of a person providing facilities for remote gambling using—

- (i) the Internet;
- (ii) telephone;
- (iii) television...

(4) A person who contravenes any provision of this section—any provision of this section—“commits an offence and is liable on summary conviction to a fine of five million dollars and to imprisonment for two years.”

I am still on the point of offences and excessive criminalization.

The hon. Minister must know that the online gaming industry is a multibillion dollar industry. The hon. Minister must know that the concept of innocent infringers by Internet service providers and persons who work with them have to be factored in this equation, lest people who are caught unawares in the cycle of participation find themselves guilty. The hon. Minister must know that the offences attributed into this Bill for corporate bodies brought to life by a specific clause in this Bill—I think it is clause 95—that corporate bodies are liable to be caught in this net. It is clause 91. And so where an innocent infringer happens by a corporate personality, under this remote facilities prohibition in clause 78, what are we saying? Are we saying that anybody who contravenes any provision of this section commits an offence, and is liable on summary conviction to a fine of \$5 million and to imprisonment for two years—anybody? Where is the attenuation of the mental capacity to commit the crime, the animus to the crime, the essential element which must go with the act of the crime? That is certainly an aspect of excessive criminalization, which cannot stand in this Bill.

It does not even take into account, most respectfully, the manner in which the online gaming industry operates, particularly when the mind and management analysis of the gaming industry must be divided out of the act of gaming itself. So if one engages in online gaming, and the online gaming is in Canada at an Indian reservation where they do lots of base operations, and you are placing bets or positions abroad effectively—because it is done in Canada, results conveyed to Trinidad and Tobago—how do we interrelate the actual operation of the industry from a remote perspective and how do we treat with the innocent infringer aspects of the offences? How?

Madam President, let us look to subclause (16), again on offences, cheating, clause 76:

“A person who contravenes any provision of this section commits an offence and is liable on summary conviction to a fine of one million dollars and to imprisonment for one year.”

Again, where is the attenuation in terms of the wilful or reckless intention to commit a crime? How does one justify treating things with so high an offence bracket, \$5 million, \$1 million, et cetera, on summary conviction alone? Is it appropriate? Is it defended only by the fact that we have administrative fines in the Bill, which is a useful construct which we use for instance in the insurance industry? It is a useful construct, but that only came about after a careful cost reference of the matrices involved in the offences, and after advice has been received in respect of the excessive criminalization argument.

This is potentially extremely dangerous for all of those workers sitting here in Parliament today. If they sit at a computer and carry out activities in the course of their employment, are they going to be visited with \$5 million fine and two

years in jail, because they were acting—and an owner or a licensee comes forward and says, “Well, I did not give them the authority to act.”? Where is the exception for that?

Madam President, let us look to the concept of a licence. A licence in the architecture of this Bill is granted for a multiple range of activities, but the licence is valid for as long as the licence is valid, is the terminology used in the Bill. Is it really appropriate if you are engaging in the regulation aspect of this, that you should have indefinite licences? Why are we deviating from existing pieces of law where licences are renewable upon review in a regular cyclical period? Why is it if we want to make sure that we have the attention of a regulator, that we are giving indefinite licensing arrangement, why?

Sen. Maharaj: Could you please direct me to what section of Part III, I assume it is 31 you are looking at, which speaks to the indefinite granting of a licence?

Sen. F. Al-Rawi: You see, Sen. Maharaj is wonderful to deal with when he is not shouting across the floor on other issues.

Part III deals with the licensing regime, and we are looking instead, not at clause 31, but we are looking for instance at clause 36:

“A licence shall be valid for the period of time specified in the licence or unless revoked prior...”

That is an open-ended licence. If I give you a licence for 10 years or 20 years—I have not seen the regulations, I do not know what the policy architecture behind this is—just like that. I am sure Sen. Maharaj would agree that he could contribute to the Bill, seeing that he is prepared for it.

Madam President, the point is not whether the period is specified or not. It

is the regularity of cyclical arrangements, and moving away from what we have by way of an existing regime in other laws of Trinidad and Tobago that require licences to be reviewed periodically, and with specified positions. This is framework parent legislation that we are looking at.

Let us now stick a pin on the offences aspect and on licences aspect, coming back to that in a moment. Let us instead go to the architecture of the Bill, starting with its objects. Clause 5 deals with the objects of the Act. Again we see it is to provide for the collection of taxes, and we note that that is to be found at 5(f). What I do notice is that under the functions specified and powers specified, we have adopted to carve away from a power of borrowing and a power of owning property, and instead to put the power of borrowing into clause 28, as this Act contemplates. But dare I say that in a review of many other laws of Trinidad and Tobago: the Regional Health Authority—we looked at them yesterday, several pieces of legislation—the Water and Sewerage Authority, the Chaguaramas Development Authority, the Trinidad and Tobago Postal Service Corporation. You would note that the power to borrow and power to own land is specifically included as a power to be factored into the powers and functions clauses, and not only a specific power to borrow and populate your fund by way of borrowings.

I have concerns in relation to the size of this industry—it is a multibillion dollar industry—and the fact that the Gambling (Gaming and Betting) Control Commission is to be populated by persons who do not have specified qualifications, and who certainly do not have anything other than the appointment by way of the Minister of Finance and the Economy.

2.00 p.m.: *Sitting resumed.*

Madam President: Hon. Senators, before we suspended for lunch the hon. Sen. Al-Rawi was on his feet, he spoke for 31 minutes and has 41 minutes remaining, sorry 14 minutes remaining. [*Laughter*]

Sen. Hadeed: I would give him 41.

Madam President: That pin ran really deep. Fourteen minutes in his original speaking time. Senator, please.

Sen. F. Al-Rawi: Thank you, Madam President, 41 minutes it is in reverse, 14 minutes of regular speaking time.

Madam President, before the break we were going through some of the provisions of the Bill on a clause by clause basis. I touched upon the manner in which we have come about to discuss this legislation today and what I consider to be the appalling approach towards serious law. Secondly, in dealing with the fact that this Bill contains provisions which ought to be considered as a money Bill provision within section 66 of the Constitution, oddly enough numbered 66 in this Bill as well, and then spoke to the excessive criminalization argument that could be levelled against some of the offences in the Bill, and I was on now in discussing the qualification requirements of the membership of the persons that comprise the architectural control factors in the Bill.

Specifically, we were looking at the commission and the appointment of members by the Minister, and I was pointing out that this industry, the gaming, the gambling, the control industry, gaming and betting, this industry is a multibillion dollar industry. It is not a small industry. In factoring the size of this industry and appreciating that the architecture involves having a commission established, pursuant to Part II of the Bill in clause 6, one is invited to ensure that we have the most robust—to use the hon. Minister of Finance and the Economy's expression—

mechanisms in place because, after all, I was saying before the break the very preamble to this Bill acknowledges that there is a wide open space for corruption and perverse activities to come to the fore, and that bearing that in mind, it being recognized in the preamble and all—if we put it that way—it is important for us to factor that clause 6 of the Bill in establishing this particular commission does not go as far as it ought to.

Firstly, the appointments are to be made purely by a political appointment. That is by the Minister of Finance only.

Secondly, the number of persons that are to be appointed to the board of the commission is rather small in number, and when we look to the prescriptions for qualification of members we are not imbued with any sense of confidence that we have adequately considered the type of person who ought to occupy such a very important position.

Now, Madam President, that is to be factored in particular against the fact that the Bill itself does not speak to what fitness and propriety of any one of its members, be it the commission, be it the ad hoc committees, be it the standing committees, be it the rehabilitation fund committee. None of those members are vetted by way of reference to fitness and propriety, and indeed need only have the say-so of the Minister of Finance for appointment. It is a bit unusual in clause 6(4) that the resignation of any member is done to the Minister as opposed to the chairman, and it is usual that the chairman returns his resignation to the Minister only. The persons appointed to act in subclause (7) of clause 7 is another interesting point. When we look to the fact that we can co-opt people to act in place of commissioners who are absent, there is not enough prescriptive protection to ensure that the qualifications of those persons appointed to act in the absence or

illness of any commissioner, are equally qualified.

Indeed, Madam President, when we look to the fact that the kind of robust protection which we should have against criminality operating at the level of the commissioner is something that we really ought to have in better form. Sen. Vieira yesterday, in another piece of law, interestingly raised the concept of bribery, et cetera, as it worked in the Motor Vehicles Authority, and we were very careful as a Parliament then, and I recommend it now, to recognize that very heavy sanctions ought to be factored against persons that pollute the system by being corrupt at the level of commissioner or co-opted member, or advisory member, or members of the reserve fund and the rehabilitation fund.

Madam President, I am concerned as well when we look at clause 11 of the Bill to note that the Bill says, and this is not unusual for certain pieces of legislation—it says at subclause (6) that:

“...the Board may, by Standing Orders, regulate its own proceedings.”

I would have preferred in an industry which is very careful as this one, which has as much money flowing through it as this one does, that we were to adopt the standard of prescribing the operation and rules and functions of the board of directors in the legislation itself by way of schedule. The standing orders allow for too much morphing, and when one has to bring a claim to the High Court, for instance, it is going to be a matter of difficulty to prove with certainty what the rules which are prescribed at any point in time are. Because, standing orders only take you so far in terms of public notice of the method and functionality of the commission as a board in operation itself.

Madam President, again we see at clause 12 that the standing committee qualifications are without any prescription. What is interesting as well in

subclause (7) is again the feature of a delegation of power clause where we do not have a limit on delegation, and that, respectfully in my view, runs afoul of the prohibition against a delegatee delegating further functions himself. Madam President, let us look to clause 13 of the Bill. I respectfully submit that clause 13(2) should be prescribed by a requirement that the disclosure be made in writing. That affects the due process and therefore proportionality considerations of this Bill, in particular it being a three-fifths majority piece of legislation.

When we look to subclause (3) and we see here that the disclosure shall be recorded in the minutes, the question of the disclosures or conflicts of interest coming into and the board having the power, having discovered a conflict of interest, to revisit a decision where there is a conflict of interest, that ought to certainly be factored in this legislation. It is too important a multibillion dollar industry to not allow the board of the commission, which would have acted in whatever capacity, not to revisit its decisions in the event of a discovery of a conflict of interest which may run to the heart of the board's decision-making capacity. I wondered where subclause (4) came up from.

“For the purposes of this section, a person who, or a nominee or relative of whom, is a shareholder who owns in excess of five per cent of the shareholding, or is a partner in a company or other body of persons or who is an employee thereof, shall be treated as having an actual or contingent pecuniary interest.”

Ownership in the context of legal ownership as disaggregated from equitable ownership is certainly something that must be factored. The 5 per cent limit is something which we have looked at in the insurance industry and in the securities industry, but is 5 per cent of this kind of enterprise adequate? Where did the number come from? We ought to be disaggregating equitable from legal

ownership and making sure that the tentacles can reach out as far as they can to catch conflicts of interest which escaped the definitional construct of subclause (4).

Madam President, I respectfully submit in clause 13 that we also—sorry, I in fact made observations about 12 and instead I should have been speaking about 13 and it is 13(4) that I have referred to in terms of the 5 per cent, and not 12(4). If we look to clause 14 of the Bill, clause 14 of the Bill again raises the spectre of two things. One, the fact that this commission, because it is under the “Powers and duties of the Commission”, has quasi-judicial functions. It can require the production of documents, records, information. It can request the appearance of a licensee; it can inspect premises; it can seize or impound any betting machines, et cetera. That, without the safeguard of the qualification level and the immunity from political interference by way of appointment other than by the Minister of Finance, that needs to be factored side by side. Surely, when we look to the extent of powers that we are seeing in this clause we again revisit the very structure of the commission and we should be looking to insulate the operationality of that.

Again, Madam President, I wish to point out to the Minister of Finance and the Economy, that the collection of fees and levies again raises the spectre associated with Part VI of the Bill, clause 66 onward, and my respectful submission is, that those provisions in Part VI of the Bill, clauses 66 onward, those are money bill considerations and should never find themselves in laws such as this. [*Desk thumping*] Prescriptive legislation does not have it, framework legislation does not have it. It is inappropriately seated, and that is putting it at its most polite level.

Madam President, let us look to clause 16. I have noticed a recent trend in legislation coming forward, where we except liability for members usually

attributed to those persons who have acted in good faith and usually restricted, if we look by way of example to section 44 of the Central Bank Act, usually restricted to certain defined categories of people. This Bill says:

“No personal liability shall attach to any member of the Board...

No personal liability...to any member of staff...”

And my question is, why? Why is there a blanket immunity provided in terms of personal liability? There must at some point be a cut-off position lest people are invited to have a form of privilege which excludes public scrutiny. And that applies when one appreciates how difficult it is in law to achieve a bad-faith recognition in court, to prove bad faith is a high burden of proof, and therefore the civil standard is being unduly diluted by the prescriptions in this Bill.

Madam President, staff of the commission in clause 19, whilst we provide that the commission may employ persons as it considers necessary. Whilst we do that and we allow for officers in the public service or statutory authority to be seconded, again, we have fallen short of providing for the pension and annuity prescriptions that ought to be provided.

Madam 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, Madam President. When we look to clause 22(4) of the Bill, and we are speaking here about the accounts of the commission:

“At the end of each financial year, any surplus of funds remaining in the account opened in accordance with subsection (1), shall be paid into the

Consolidated Fund.”

Again, how does this find itself in a Bill such as this?

2.15p.m.

Taxes, levies, things which either add to or take away from the Consolidated Fund other than by way of an appropriation of Parliament, are properly to be considered in another type of legislation, not this type of legislation. [*Desk thumping*] Sen. Maharaj is raising the issue of the National Lotteries Control Board having a similar type of provision. But, Madam President, what I am saying is, the National Lotteries Control Board and its disaggregation of taxes—I have not looked at that legislation—is certainly number one, something which is excluded out from the operation of this particular legislation and something that we need to look at carefully.

The comments that I make are to try and improve the legislation, not to object to it, per se. I do think that it is high time, if we look at clause 24, that we start appreciating improving the structures of the auditing functions which supervise funds and moneys of public entities, and I would love to see a bringing of the Jamaican model experience of their Audit and Exchequer Act, which has very good provisions inside as to how their committees ought to operate.

On that vein, Madam President, I wonder again, why are we having staggered financial year-ends? Why does the year-end in clause 26 of this Bill end at June 30, other legislation December 31, other legislation brought by this Government, September 31, even though it is September 30. Madam President. I think that we need to be careful about that.

I am looking again at clause 28 as to the specific power to borrow and I wonder why it is as limited as it is, and why it is that that power to borrow is not

also included in one of the general powers provided on to this body corporate that we are establishing in clause 6 of the Bill. Again, we have an incongruity of legislation when we look to the Central Tenders Board application in clause 30 of the Bill, and one wonders if the Minister of Planning and Sustainable Development, perhaps, would speak to when the proclamation of the procurement legislation is likely to be seen after it has now received assent.

Madam President, there are a few interesting clauses which appear next, but time is quite short. We have, in clause 32, as compared with clause 41, an interesting arrangement which I think to be quite dangerous. When we look to clause 32(3):

“A person who is a key stakeholder in the racing sector...”

Well, I “doh” know what that means. Hopefully we could decide upon that. But look at this at subclause (5):

“The Minister may by Order, subject to negative resolution of Parliament, amend the categories of licences...”

Is that appropriate? Do we want to have the category of licences in parent legislation as easily redefined as that is prescribed in subclause (5)? Compare that with clause 41 of the Bill and we see:

“For the purposes of this Act, a ‘Personal Licence’ is a licence”—et cetera.

“(2) The following persons shall not be involved...”

And then there is a list of them. But look at subclause (3):

“The Board may vary the list of persons listed in subsection (2) either generally or in a particular case or for a particular purpose.”

I have never seen the function in legislation delegated to a board to just vary categories like that, and I wonder what that is going to leave for us. Again, tie in

the prescriptions without definition as to fitness and propriety in clause 42 of the Bill, and again, you get to worry about what the construct of this legislation looks like.

We, of course, dealt with already, the open-ended length of the term of the licence at clause 36, and I just ask the hon. Minister to, perhaps, think about the rolling over factor for licences as we do for private members' clubs, et cetera, in other pieces of legislation.

Permit me to refer to clause 51—and I am skipping a number of observations which I have made on the Bill for the benefit of keeping within time. Clause 51 provides for the appeal process.

“Any person aggrieved by a decision of the Commission under this Part may, within thirty days of receipt of the Commission’s decision in respect thereof, appeal to the High Court.”

Well, why 30 days? Why deviate from the judicial review standard of a longer period? Why 30 days? Are we going to say that there will be rules and procedures for application? What type of approach is to be made to the High Court? How is that going to come about? Is it by way of notice of application? Is it pursuant to similar structures—not to offend Sen. Vieira—but mutatis mutandis to the Judicial Review Act? [*Laughter*] What is the actual position of approaching the court that we now make here, Madam President?

Madam President, when we go—and I want to jump to a very important aspect. When we are looking at the taxes and funds section and look at the Committee for the Rehabilitation and Development of Funds, why is it that we are saying that that committee shall have a minimum of five, no more than nine and they only have two years of operation subject to reappointment? Why? Why is the

tenure of such an important social services sector, which is for the benefit of the workers and players and participants in the industry? Why is that stymied to such a short period of time? I really have no explanation.

The process of accounts of the Rehabilitation Fund being managed by the committee and then audited by the committee, causes me concern. There is no independent auditor or independent director participation to head the audit committee. Why is it that we are allowing it to supervise itself and to report to its own board? It does not breed good result for us to have that close a participation of membership, because the industry is likely to be influenced at times by unwholesome approaches.

Madam President, I want to look, particularly at clauses 70 and 71, and I want to say that clause 70, which is the power for an officer to enter premises, seize things, take things, et cetera, the express provision of consent should be provided there, but, more particularly, in clause 71, I am not so pleased with the low standard of a warrant from the Magistrates' Court, and I say so bearing in mind the consequences which flow from an industry like this.

I am aware, I know my learned colleagues, Senators Vieira and others, will remind me that the Copyright Act has a warrant provision at magisterial level, et cetera, but I am more inclined to see that either beefed up by the supervising attorney's report similar to what is used in Anton Piller Order approaches at the High Court, that report being provided to the magistrate in a much tighter provision and with supervising attorney participation, or in lifting the bar—this is my own preference—to a High Court standard that is used for search and inspection, otherwise known as an Anton Piller Order approach.

The offences and penalties in Part VIII, Madam President, what does a

\$250,000 fine do for a person who is in a multibillion-dollar industry who does not have a licence? Does that really take us far? How much is \$250,000 for a company like this? Should it be modified such as there is a continuing offence for each day where the licence is expired? Should it not be something so compelling to cause licensing arrangements—because we do not need to look too far. We did it in the members' club positions; we did it in the registration of clubs legislation that we sought. I want to say that there is a lot to be said about this Bill and, certainly we will put it in the whole committee of this House.

I want to say the following: the People's National Movement is fully committed to regulating this industry. [*Desk thumping*] We are committed to regulating this industry with proper consultation had.

Sen. Maharaj: That is a new position.

Sen. Robinson-Regis: That was always the position.

Sen. F. Al-Rawi: We believe that legislation should be approached in a reasonable and responsible fashion. [*Desk thumping*] As it pains me now to say this, I will say it nonetheless. I condemn the Leader of Government Business for daring to suggest that we were not told that this Bill was going to a joint select committee today. I think it gross irresponsibility that the Government, sitting on this Bill for 18 months, did not bring it to a joint select committee of the Parliament, because workers' rights are being affected [*Desk thumping*] and there has been a keen interest to people who have apparently been led up the garden path.

The workers of the industry have been told, it seems, that there has been wide consultation and support and that this Bill will see the light of day, but it would be irresponsible to deal with legislation, not only where we have not had

time to consult upon it, or time to have actually read it with some intellectual space and reflection, after consultation, then coming back to make contribution, but it would be irresponsible, when we look at the excessive criminalization factors inside of this Bill, to expose the workers themselves to innocent infringement on strict liability crimes.

Let me translate that for people looking. Workers themselves can find themselves jailed and subject to \$5 million and subject to \$1 million because the Government has not thought through its legislation properly. And it is a gross dereliction of duty to come six days before the end of Parliament to try and shove this work into the face of people.

I wonder what the Leader of Government Business is going to say when he contributes. As to the *volte-face*, the abrupt turn of face, the 180 degrees that he has made, how could we come to the Parliament today and just switch gears? How can we do that?

Sen. Maharaj: Madam President, 35(5).

Sen. F. Al-Rawi: Madam President, I have two minutes left.

Sen. Maharaj: I am on my legs.

Sen. F. Al-Rawi: What am I imputing?

Sen. Maharaj: I am still objecting to it, 35(5)—

Madam President: Hon. Senator—

Sen. Maharaj:—imputing improper motives to the Leader of Government Business.

Madam President: Hon. Sen. Al-Rawi, I have been listening to you chapter and verse, and I must admit, you know, that 35(5) is imputing improper motives to the hon. Minister and I ask you to refrain, kindly. Please continue.

Sen. F. Al-Rawi: Madam President, it gives me no pleasure to state the facts on the record. I am entitled, under section 55 of the Constitution—

Hon. Member: No, you are not!

Sen. F. Al-Rawi:—and the Standing Orders. [*Interruption*] I am making a further point—let them not get jumpy. I know their seats “hot”. I am entitled to level my criticism as to the approach taken in Parliament, and I do so with a free tongue, a clean heart and a clean conscience. [*Desk thumping*] Because, Madam President, what this is, this is for me an abuse of the Parliament and I am not taking that back and I am not refraining from that. I will be guided, of course, by your learned direction, but this is an abuse of the Parliament’s processes. This is an abuse of the workers who come here to gain protection from legislators.

This is an abuse of their legitimate expectations. This is an abuse of their ability to look after their families. How do you watch somebody with tears in their eyes, looking for a prescription and tell them “the Government fooled you”? Well, I will tell you now. The Government fooled you! They fooled you in saying that they had thought out the legislation properly. They fooled you in saying that they had had consultation and proper process. They fooled the whole Parliament in coming to say that we are not going to a joint select committee, when that was said expressly by the Leader of Government Business.

Sen. Maharaj: 35(5) again, Madam President—35(5)

Sen. F. Al-Rawi: Madam President, I take responsibility for my words—

Sen. Maharaj: 35(5). He is imputing improper motive on the part of the Leader of Government Business.

Madam President: Senator, 35(5) improper motives. Could you make your point without imputing improper motives to any Member of this honourable

House?

Sen. F. Al-Rawi: Madam President, perhaps you could guide me. I am not imputing an improper motive. I am saying a factual—

Madam President: Let me guide you. Your time has expired, hon. Senator.

Sen. F. Al-Rawi: Thank you, Madam President. With no injury time permitted, I thank the Senate for the opportunity to contribute and I certainly think that the Government is irresponsible.

Thank you, Madam President. [*Desk thumping*]

Madam President: Sen. Drayton. [*Desk thumping*]

Sen. Helen Drayton: Thank you, Madam President. Let me commend the Minister for bringing this Bill. I know that the Minister means well. I think he also knows that I am not a very happy camper today. The Minister mentioned first protecting the good name of this country. I have to say I winced.

The Minister said an objective of this Bill will protect the poor and vulnerable and minors, which is laudable.

2.30 p.m.

Third: the protecting of the banking and financial industry and I infer from that, that there are banking institutions at which members of the gaming industry and gambling industry cannot do business. I understand the implications with respect to money laundering, and let me say it is one of the reasons why this Bill needs very thorough scrutiny, lest we create a situation and expectation [*Desk thumping*] which fuels more money laundering.

Fourth: the Minister mentioned the protection of jobs of many people. I am tempted to say that the Government cannot be serious. First, it brought in 2013

legislation that sanctioned the gambling in every nook and cranny of the country, which in effect promoted the continued spread of one-arm bandits, called the cocaine of the gambling industry. Under its watch it allowed private members' gambling clubs to increase and develop in every community and next door to schools. That did not start with it, but it did nothing to stem the tide, rather it brought legislation that promoted the continuation of the spread.

Now, it brings a Bill to ostensibly control the industry. Madam President, I have no doubt that the persons who worked on this Bill have done much good work, and I will not seek in any way to detract from their patriotic efforts. But the Government cannot be sincere in bringing what is supposed to be important legislation in a manner that denies the Senators adequate time to study the Bill. [*Desk thumping*] Yes, this is a Bill with implications for the banking and financial sector, implications with respect to money laundering and crime, yet it comes at the midnight hour with four other Bills to be studied and debated.

If the Government has no respect for Senators, then at least have respect for the people who gave their time and energy [*Desk thumping*] in the drafting of this legislation. And then for the Government to compound things by saying that we do not want to do work, I think it is "farse" and out of place. [*Desk thumping*] More so, when we spent 12 hours yesterday drafting legislation which the hon. Attorney General publicly admitted that the Government brought legislation that was badly drafted.

So you know, I think that the Government—I know it is the midnight hour. I am tempted to say the midnight hour for them. I think they ought to have more respect. [*Desk thumping*] Now today, the Government proposes a gambling and betting Bill not giving sufficient time as I said, and there is no question that the

gaming industry needs to be regulated. However, with all due respect we need the time to study this Bill and I recommend that it goes to a joint select committee. [*Desk thumping*]. Now, some weaknesses and flaws have just been articulated and I do not think I need to repeat them.

In coming here I heard that workers in the industry got the impression that this Bill will be passed today, and let me say to these workers, first a Bill does not become law until it is passed in both Houses of Parliament and proclaimed, proclamation could take a very long period of time depending on their regulations, and all the human, financial and technical resources that need to be deployed in the operationalization of this Bill.

So, I want the workers of the industry to know that they must not feel that I do not wish to support this legislation or anyone else on the Independent Bench who is like-minded. I am sure that all of us want to see laws regulating the gambling and betting industry, but we must ensure that any law has thorough scrutiny of the Senate, more so given the recent situation where Government admits that it brings Bills that are badly drafted. Now, there are questions that go abegging: how would the Government manage the industry as it says through the Commission when it cannot manage the National Lotteries Control Board—where are the audited accounts for the National Lotteries Control Board since 2009? Those 2009 accounts were laid in Parliament in 2013. This is an institution right under the nose of the Government, responsible for millions, billions of dollars per year, where are the audited accounts?

Now, who is taking action against the Chief Executive on the board of that Government institution for breaking the regulations that govern it? Why should we believe the Government when it says that it could control this industry, when it

cannot get audited accounts from the National Lotteries Control Board? [*Desk thumping*] Personally, I think it is time that we just call in the mamaguy. Why were we not given regulations with this Bill? I want to see regulations and I want to see a clause that causes disbursement of any funds by the gambling and betting industry to support elections campaign financing since we do not have elections campaign financing legislation. [*Desk thumping*] Why no special clause in this Bill with respect to risk management within the Commission? Where is the clause that would cause specific gambling zones so that casinos cannot be established willy-nilly adjacent to schools and in the heart of residential areas? It is what we have right now, totally out of control.

Now, that clause should be in primary legislation with details on a schedule appended. Are we to hear that casinos will be established in Chaguaramas? Tell me no. Madam President, I will not believe a single word the Government says with respect to controlling the gambling and betting industry until it demonstrates to me and to the public that it exercises control over the National Lotteries Control Board. I want the National Lotteries Control Board to account for the billions that have gone through it over the past eight years.

Now let me close. It was not even my intention to speak on the Bill, but as I said the Government made me a very unhappy camper. Let me close by recommending, Madam President, that this Bill be sent to a joint select committee. [*Desk thumping*]

Madam President: Sen. Mohammed. [*Desk thumping*]

Sen. Cindy Gibbs-Mohammed: Good day to the hon. President of the Senate, Senators. A special good afternoon if you would permit to acknowledge our members of our union industry association, Union of Members Club and

Lottery Workers. [*Desk thumping*]

I am here today representing the union and workers you see here and many others, and I must say I am happy to see that this Bill is striking so much emotion. However, Madam President, permit to give a brief history leading up to why we are before you today. During the previous administration, the then Government made it very clear, made very negative statements about our industry, and at the same time legalizing slot machines, and permit me to quote:

Saturday, October 18, 2008, Manning knocked for ending gambling.

Manning initially had no objections to the gaming industry and which at one point helped bring in a significant revenue and wants to close it down.

Guardian, Thursday, July 29: Casinos must go. Mr. Manning, again, vowing to put an end to the operations.

My family and the families of over 7,000 workers at that time were threatened with ruin. There was no discussion allowed. The then Government dictated what was to be, and the then Prime Minister said he intended to close our industry and also lottery. Our workers' livelihoods were being gambled with, our freedom of choice

was being infringed upon, even the greater population was aroused and worried about their own freedom of choice as the Government continued to impose their personal views on our democratic society.

Dictatorship at that time was definitely in the making. [*Desk thumping*].

Sen. Robinson-Regis: 35(1).

Sen. C. Gibbs-Mohammed: The Union of Members Club and Lottery Workers together with the members—[*Interruption*]

Sen. Robinson-Regis: Madam President, 35(1) and 35(5). The Senator, I

know she is new and temporary—

Madam President: Hon. Senator, 35(1) is relevance. Sen. Robinson-Regis, 35(1) is relevance. I believe the hon. Senator in her maiden speech is being very relevant.

Sen. Robinson-Regis: 35(5) also, Ma'am, imputing improper motives.

Madam President: Senator, please continue. [*Desk thumping*]

Sen. C. Gibbs-Mohammed: The Union of Members Club and Lottery Workers hit the streets, vowed to fight the then Government to the bitter end to keep this industry alive.

Madam President, with over 3,000 workers we protested. We were noted by the national trade union as the biggest march this country has seen in over 11 years. [*Desk thumping*] Our union wrote letters, various letters, to Minister, to Ministries, seeking audience with them and never even got a reply or acknowledgment. Nevertheless, we got our message across. Thanks to the then UNC, the Leader of the Opposition and our current Prime Minister, Mrs. Kamla Persad-Bissessar—[*Desk thumping and crosstalk*—she gave us the opportunity to give a truthful history of the industry and the Finance Bill. That was then before the Parliament on June 26, 2007.

Madam President, tears still come to my eyes as I remember that speech. This said—well, not the same place, but in the honourable House nearly eight years ago. My good friend then, an advisor and our customer, the late Dana Seetahal, sat on these said Independent Benches. Miss Seetahal gave a lot of her time working on the Bill, advising our union, the Government, drafters, and she was an expert in this field. We are all saddened that she is not here to see the final Bill being presented in this Senate and she loved this Senate; we all know that.

This gaming Bill is a tribute to all those who took part in drafting it, but especially to her, Miss Seetahal who was such an advocate of responsible and regulated gambling. Today, Madam President, it is a significant day for industry. After all the lobbying, the protesting, meetings, presentations, I was given the opportunity by the leader of the People's Partnership, the hon. Prime Minister [*Desk thumping*] Kamla Persad-Bissessar, to speak for a second time in this great Senate on the issue of gambling.

Let me give you a little bit of my history, Madam President and Senators. This Bill is particularly touching to me and my family as I have worked in the gaming industry for the past 19 years.

I began working in the industry at the Ma Pau Members Club Casino as an administrative assistant. At that time, the industry was still young and afforded a lot of opportunities to us. I saw young people who began with me rise to management positions even though many of us had little or no education or qualifications. The gaming industry offered me a higher income than I would expect elsewhere. It offered me opportunities for advancement which I fully made use of.

2.45 p.m.

At Ma Pau, I had the experience working in different departments of the industry, from the table games to management to operations to cash desk to services and I rose into management and eventually to a director of the industry. [*Desk thumping*] I was able to accomplish this while in the industry and more so at Ma Pau Members Club as they continued to encourage our workers in their study programme designed to prepare us with not only skills, but education to ensure our consistent growth and to explore the many opportunities that this industry has to

offer, opportunities that I made use of and had no issues with in carrying out my union duties and activities.

As the general secretary of the Union of Members Club and Lottery Workers, a very strong union with nearly 2,000 paid members, we continue to show a strong force. Our members are workers of members' clubs and lottery outlets; most of our members come from underprivileged areas. Another Senator, the late Muhammad Shabazz, was also well known to many of our workers. He was well known as a defender of the underprivileged [*Desk thumping*] and came to our aid when the might of the then Government was deaf to our many pleas.

Sen. Robinson-Regis: PNM.

Sen. Al-Rawi: Wow!

Sen. C. Gibbs-Mohammed: He spoke up for us and I remembered—and I shared this story just a while ago. Hon. Fitzgerald Hinds, the MP for Laventille, he met our union members and we expected him to come and listen to our plight, but instead, he gave a speech damning us all, many of whom were his own constituents and known to him for working in the industry.

Sen. Hadeed: “Dais PNM!”

Sen. C. Gibbs-Mohammed: Mr. Hinds, I want to take time to tell you today that I have driven through Laventille and their surroundings, and many of our workers are very proud today to wear our membership club's uniform, [*Desk thumping*] they are proud today to wear badges; they are proud that they are doing the right thing for their children; they are proud to be exemplars in their community and in their families. Many said that Mr. Hinds turned his back on us, but we did not turn our backs. The industry is a special industry and it supports many like the children, old people—through our donations and various charity

activities.

Our union fought very hard. Some politicians from the then ruling party secretly supported us and gave us advice and information. The then Leader of the Opposition met a delegation of our workers at her office and I remember some of those ladies expressed their fears as they spoke to Mrs. Kamla Persad-Bissessar; she was touched. I remembered some of the ladies spoke of their youth hardship, the abuse that they suffered as children. And the Opposition Leader, she cried at that time; I cried; the nation cried. [*Desk thumping*]

Sen. Al-Rawi: She crying right now!

Sen. C. Gibbs-Mohammed: She promised to look into regulations when she got into office.

Sen. Robinson-Regis: She take five years to look at the regulations.

Sen. C. Gibbs-Mohammed: And guess what? Since that time, Madam President, the hon. Mrs. Kamla Persad-Bissessar and her Government along—and I must say, at this point, a lot of work from the Minister of Finance and Economy, Mr. Larry Howai—as they kept their promises to us.

Madam President, you have before you today, a well-studied and designed framework for controlling the gaming industry after five years in office. [*Desk thumping*] And I would like to quote that this is not a politically paid ad, it is the truth.

Sen. Al-Rawi: Yeah, right. [*Crosstalk*]

Sen. C. Gibbs-Mohammed: It is the truth. [*Desk thumping*] Madam President, this Bill has had tremendous support from all sides, inclusive of the present Leader of the Opposition who said in his budget contribution two years ago that it was time that our industry is regulated. [*Desk thumping*]

Sen. Robinson-Regis: And they wait six days before Parliament ends to do it.

Madam President: Hon. Senator. May I advise hon. Senators, especially on this side of the House, this is hon. Sen. Mohammed's maiden speech, please contain yourselves.

Sen. Robinson-Regis: But she is attacking us.

Sen. C. Gibbs-Mohammed: I am not attacking anybody.

Madam President: Sen. Regis, you should know better—

Sen. Robinson-Regis: I do.

Madam President:—than to respond to me like that. There is a method and a system in this House for responding.

Sen. Robinson-Regis: Really?

Madam President: If you wish to speak, you will have your opportunity. Please, stop heckling the Senator during her maiden.

Sen. Robinson-Regis: [*Inaudible*] I apologize to you, but I felt threatened by the heckling. [*Laughter*]

Madam President: That is being totally facetious. Senator, please continue.

Sen. C. Gibbs-Mohammed: Let me speak a little about employment. By passing this Bill, over 10,000 workers will now have a sense of security [*Desk thumping*] and let me correct what was earlier said by one of the Senators, but there is no longer 7,000 workers. That was the figure in 2007. It is over 10,000 workers right now. So this industry has grown. There has been continued—and this House will be—well, I hear a lot of address made about the banking sector, so it is not a shock that no bank in this country lends money to members' clubs

workers. No bank. There has been continued discrimination by the banking sector. [*Desk thumping*]

It is as if these workers are being looked down upon and sent back to the so-called ghetto areas. It is as if they are being told that they have no place in society. I know of cases reported to me and I will just iterate just two. One of our workers, he was about 21 years when he started within the industry and he was trained to deal cards. He is now married with four children; holds a senior position. After working for 16 years in the industry, this system has failed him. What has he done wrong? Work hard, provide for his family, paid his taxes, saved his deposit and today sadly, he has been refused by the bank, a loan which seeks to secure his family a home although his earnings have qualified him—because he works in the industry. How fair is that? What should he do? This is just one of the many stories I can tell you concerning our employees being refused by the banks because of the industry that we work in. This is not only sad for us, but it is discrimination.

There was recently a bar manager, he went into a—permit me to call the bank's name? Am I allowed?

Sen. Singh: Yes, yes.

Sen. Maharaj: Yeah, “call dey name”.

Sen. C. Gibbs-Mohammed: Scotiabank and because of his T-shirt, he was refused. But this is the same bank, Madam President, that \$30 million in cash each week, they collect from “play whe”— [*Desk thumping*] without asking a question. This is the same bank whose directors are presently hiding or resigning for activities that are detailed in the press nearly every day.

Madam President, this Bill satisfies the AML requirements and I would also like to insert that the union has been consulted and has been a part of the formation

of this Bill. It brings Trinidad and Tobago in align and ahead of the world in gambling regulations. But most important, this Bill enfranchises the ordinary workers in the industry of Trinidad and Tobago.

Madam President, it is a fact that there are over 10,000 persons directly employed in the industry in Trinidad and Tobago. These workers support a further 20,000 dependants. Most of our workers are women. Many are single mothers. The gambling industry offers higher wages than others. The industry offers quality employment and this is solidified by the different categories of licences now required by employees.

Training is given within the industry and education is of paramount importance. This Bill encourages qualifications of different levels to acquire a worker's licence. Licences given to gaming industry workers by the commission will be further valuable, not only to them locally but internationally. The commission even checks the background of each employee to satisfy anyone they come into contact with. They are decent law-abiding, tax-paying citizens and these licences will be a great asset to our workers. I stress on workers because that is what I believe in and I am here for and this Bill is a mega one where it comes to benefiting so many of us and the people of Trinidad and Tobago.

In indirect employment, there are also many persons employed indirectly by the gaming industry. Estimates are that over 40,000 persons are employed indirectly in activities such as printing, where we print flyers, books, stationery; IT workers, all racing pools and large membership clubs operate computer system, and this records the activities of management, accounting and marketing. It is an important field. The Government rightly encourages it and it offers IT persons to find decent work.

The entertainment: they benefit and they continue to provide sustainable income to them, especially our local artistes, not only at Carnival time, but all year round. There are caterers that supply food, and cooks that are employed under this industry; hundreds of delivery persons, taxi drivers, all receiving work from this industry; custom brokers, transport companies, interior designers, craftsmen, joiners, painters, all maintaining the ambience that you often see.

There are over 3,000 security officers employed under this industry. The safety of the staff and customers is of interest and importance. Accountants, lawyers—Madam President, I can go on and on. The gaming industry is a fact of life and there are so many reasons to pass the Bill of regulations but none greater than to secure the direct and indirect employment of over 48,000 people. [*Desk thumping*]

By setting the rules and regulations for gambling, the Government is protecting the vulnerable. There are always those of us who would overindulge, especially when we are having a good time.

3.00 p.m.

The Bill is needed now so that we are protected from ourselves when necessary. For example, after the Bill is passed, our families will be able to step in if control is required. My family can inform the Commission that I am over-gambling and I would be prevented from entry to members clubs over the country.

A special fund is set up. It is called the Rehabilitation Fund. This provides care and counselling to anyone identified as addicted to gambling. The fund is being paid for by the gambling establishments. However, it is only by having this law can addicted persons be identified.

Madam President, studies have shown that compulsive gambling or

activities is not generally limited to one compulsion. A person with a gambling problem as we call it, does not have a gambling problem. He has a compulsive disorder. This Bill enables such people to be identified and given counselling, even medication, as required, all paid for by the gambling industry.

Madam President, this Bill will become a revolutionary one for many other countries to copy. As a woman living in society, I wonder if there were such provisions to help persons addicted to drugs. This Bill will make our country richer, certainly. But most important, this Bill sets a bar of compassion and responsibility that we should take note of.

We are notorious for not liking controls in our society. We complain when someone gives us a bad drive but we think nothing to exceed the speed limits ourselves. We are a happy society. And it is natural that members clubs and gambling become so popular. We like to “lime”. That is also our right but we also have to protect ourselves and that is what this Bill so admirably does.

Madam President, the Bill sets up a commission, which has control over the industry and the commission works with the Government to set the rules, regulations and taxes for us all to share. The anti-money laundering requirements are mandated in the Bill. The commission will have strict controls on how money is moved and accounted for within a members club. Commissioners will have inspectors who can come in at any time to collect information so needed and required.

This Bill incorporates best practises from around the world and includes many new best practices worked on by the Ministry of Finance and the Economy, the Ministry of National Security, the Attorney General, the Minister of Legal Affairs, industry associations, civil groups, the FIU and the banking sector.

Many people are concerned that casinos are places where games are rigged. This is not my experience but perceptions can often be seen as reality. The Bill gives the commission full power to decide upon the rules of games, how they are played and the requirements to be used. There are so many sensible controls mentioned in this Bill.

Madam President, Senators, in closing, you said you did not have enough time and there is only six days, which is not enough time but we have been waiting over 13 years, seeing and pleading with government after government, and the only Government that had the backbone to even begin a framework for our industry is the present Government. [*Desk thumping*]

This Bill protects the vulnerable. It enfranchises the workers. This Bill creates a solid and valuable industry to Trinidad and Tobago. This Bill establishes controls. This Bill will bring hundreds of millions in revenue to the people of Trinidad and Tobago and I urge that we deal with this Bill and we all vote favourably on this Bill, regardless of your political affiliations or other suasions, as this Bill is for the people. I thank you. [*Desk thumping*]

Madam President: Hon. Senators, let me congratulate Sen. Mohammed on her maiden contribution. Thank you very much. [*Desk thumping*]

Sen. Camille Robinson-Regis: Thank you very, much Madam President. I would like to make a brief intervention in today's debate. I am very concerned. First of all let me say from the outset that as my colleague Sen. Al-Rawi indicated, the People's National Movement's position at this time, under the leadership of Dr. Keith Rowley, is that we support—[*Interruption*] PhD—the regulation of the gaming industry. We have said that. Sen. Al-Rawi said that and I am repeating it,

Madam President. Maybe I was outside at the time but I understand that Sen. Gibbs-Mohammed did acknowledge that that is the PNM's position.

In a maiden speech, unfortunately I have to indicate to the goodly Senator that the Oath says, and I would read it into the record:

I (Whatever) having been elected or appointed a Member of Parliament do swear by (...) that I will bear true faith and allegiance to Trinidad and Tobago—

Sen. D. Maharaj: Standing Order 35(1), Madam President. She is reading the Oath of Allegiance for us here?

Sen. C. Robinson-Regis: I have just started.

Sen. D. Maharaj: And you are being irrelevant from the start.

Sen. C. Robinson-Regis: Madam, would you like to rule?

Madam President: Hon. Senator, I was listening carefully and I was trying to connect myself the relevance of attaching the Oath and referring to a maiden contribution to a Senator in this honourable Senate and I myself am wondering with the relevance but I would give you a moment to connect to the dots.

Sen. Robinson-Regis: I will bear true faith and allegiance to Trinidad and Tobago—

I am taking my moment to connect the dots. [*Desk thumping*]

—will uphold the Constitution and the law and will conscientiously and impartially discharge the responsibilities to the people of Trinidad and Tobago, upon which I am about to enter.

That is the Oath that was taken by Sen. Gibbs-Mohammed just over 24 hours ago.

Madam President, I would like to suggest that what happened here today with Sen. Gibbs-Mohammed's contribution was another example by this

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Government of using the Parliament in a way that does not auger well for the good governance of the people of Trinidad and Tobago. [*Desk thumping*] What we saw today was a lobbyist coming to the floor of the Parliament and lobbying for—
[*Interruption*]

Sen. Maharaj: Standing Order 35(5). Sen. Gibbs is a Senator of the Government and not a lobbyist.

Madam President: Sen. Robinson-Regis, you are bordering on imputing improper motives to a dutifully sworn in Senator of this honourable Senate. You may not continue along that road. You are definitely out of order. Please continue with the debate.

Sen. C. Robinson-Regis: Madam President, the Senator indicated from the outset that she is a member of the union of—I cannot remember the name of the union that represents this industry.

Madam President, when a Senator comes to this Senate, yes there will be circumstances where Senators have a specific interest and they may declare that interest. But we have not heard one iota of information from the goodly Senator, as it relates to even those persons who are opposed to gambling. Madam President, we on this side are very concerned that what we saw today was a violation of the spirit of the Parliament of Trinidad and Tobago. [*Desk thumping*]

Madam President, what should have taken place, if I may be so bold as to say, was the opportunity could have been given for that information that came from Sen. Gibbs-Mohammed to be dealt with in a committee and then that information be dealt with by the Senators and put into the pool of information that would help us determine the best legislation for the industry and for Trinidad and Tobago.

Madam President, my objective in making this brief intervention is to bring that to be the notice of our Parliament and to indicate that we are sailing too close to the wind, as it relates to bringing all of our institutions down to the lowest level.

[Desk thumping]

Madam President, we cannot, as a Senate, sit here and allow such a contribution to go unnoticed. I felt it was important for us on this side to make that observation and put it on the record of the Parliament. Thank you. *[Desk thumping]*

Sen. Dr. Rolph Balgobin: Thank you, Madam President. I will be brief. I will begin by saying let us all calm down. This has got very hot very quickly and I know why. The bell will shortly ring and we move on to other festivities.

Madam President, we can easily become distracted from the fact that this is very important legislation. It is very important legislation and I commend the Government for attempting to address an issue that clearly has no recent genesis. It has been there festering for a very long time and it deserves to be addressed, not just because it has been around for more than a decade, but because of the significant social and in particular employment impact this sector has.

I want to note that my hon. colleague, Sen. Gibbs-Mohammed, invoked the memory, if not the spirit, of Dana Seetahal SC who as we all know is claimed by this Bench as a Member of longstanding, many years of distinguished service. I want to say to the Senator and to colleagues present who may not have had the privilege of serving with then Sen. Seetahal SC, my recollection was that Dana Seetahal would never rush legislation.

3.15p.m.

She would never encourage legislation to proceed in any fashion, other than

in a deliberate manner or way. To my mind, there is a clear social need, but this is not a reason to set into law things that have not been properly considered. So the fact that so many people are affected, to my mind, justifies that [*Desk thumping*] a careful road be the one that we traverse.

I would say to the hon. Sen. Gibbs-Mohammed that it has been the experience of this Parliament that legislation is easier to pass, than to fix. Therefore, it behoves us, we are compelled to take every precaution to ensure that we do not pass merely good legislation, but we pass legislation as near to perfect as we can get it. [*Desk thumping*]

So, we must recognize the hard work, and I think that this can be easily missed—the very hard work, the sterling work that has done by the Ministry of Finance and the Economy, [*Desk thumping*] and the people in the Ministry of Finance and the Economy, in getting this to this point, we must recognize that sterling effort, and we must commend the result of that effort, as it is codified before us, to further and future consideration.

So I advocate that we pause any further—we do not take any further consideration of this Bill at this time. [*Desk thumping*] I know that the—I would like to believe that my entreaty is falling on fertile soil. So with those few words, Madam President, I thank you. [*Desk thumping*]

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): [*Desk thumping*] Thank you, Madam President. It was not my intention to speak on this debate, but I have to rise in defence of the maiden speech by Sen. Cindy Gibbs-Mohammed. [*Desk thumping*]

Before I do so, I want to congratulate the Minister of Finance and the

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Economy and his team, [*Desk thumping*] for bringing pioneering legislation in this House. It is a greenfield site to regulate the gaming and betting, the gambling and betting industry. It is this administration that has taken up that mantle, in order to create the regulatory framework for the gaming and betting industry. [*Desk thumping*]

All over the world, many years ago, Madam President, in 2006, I recall, having brought a matter of the role of the gaming industry as entertainment in the
Sir Alan

Budd report on the industry in Britain; seminal work. It dealt with all the issues that impact upon the industry. So well-articulated by Sen. Cindy Gibbs-Mohammed and also Sen. Larry Howai.

Madam President, it is the role of the Government to give the people a voice in the administration of this country. [*Desk thumping*] The voice of the people is the voice of God, and for my hon. colleague to use the oath, and to indicate that the role of Sen. Gibbs-Mohammed is that of a lobbyist—it is the role of this Government to bring people to the fore—when I hear that, that you confine that to a lobbyist, who is not a lobbyist gathered here?

When Members speak, they represent special interests, [*Interruption*] because they come from a background [*Desk thumping and interruption*] of special interests. From knowledge, they come from a knowledge by virtue of their experience in their particular sector, but they are not lobbyists in the sense that the hon. Member spoke about the Member, Sen. Cindy Gibbs-Mohammed— [*Interruption*—because of their knowledge. So, how can you use a pejorative term, lobbyist, in the political sense, against Sen. Cindy Gibbs-Mohammed? She came with peculiar knowledge of the gaming sector in this country, [*Desk*

thumping] by virtue of her 19 years' experience in the sector, and that is what is brought to bear. So that to say—and, you know—that it violates the spirit of the Parliament of this country.

Madam President, when we look at the Constitution—and the Parliament is a creature of our Constitution—we recognize that this group of employees and workers have been discriminated against. The hon. Sen. Gibbs-Mohammed spoke of the tangible discrimination by the banking sector against members, and Sen. Small has personal knowledge and deals with the banking sector, [*Desk thumping*] and experience. [*Interruption*] So that because he speaks—[*Interruption*]

Hon. Senator: He is a lobbyist for the bank.

Sen. The Hon. G. Singh: Madam President, it is our People's Partnership administration that gives voice to the voiceless. [*Desk thumping*] This forum of Parliament is a forum in which the people must have a voice. When the hon. Opposition Leader appoints different persons to the Senate to act, they too come from a background that is different, but this is—so that, therefore, the hon. Senator, coming from the gaming industry, is peculiar to the gaming industry, with a Bill that is relevant to the gaming industry, brings to bear her experience and knowledge, and there is nothing fundamentally wrong with that. [*Desk thumping*] So it cannot represent a violation of the spirit of this Parliament, cannot!—because, you see, Madam President, the quality of our democracy is measured not by the contentment of the affluent—[*Desk thumping*]

Hon. Senators: Whoooo!

Sen. The Hon. G. Singh:—but rather, how the poor amongst us have access to the basic amenities of life: work, shelter, clothing, water, education. [*Desk thumping*] So we judge your democracy. We represent our democracy, and when

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we have a representative like Sen. Cindy Gibbs-Mohammed, it is our Peoples' Partnership that will give that opportunity of access. [*Desk thumping*] They, when they had the opportunity, will deny a person like Sen. Cindy Gibbs-Mohammed, the opportunity. [*Desk thumping*]

You see, Madam President, I want to anchor—[*Interruption*]

Sen. Robinson-Regis: “So why yuh did not bring her since 2010?”

Sen. The Hon. G. Singh: You raised a hornet's nest, so take “yuh sting”. [*Laughter, desk thumping and interruption*] Madam President, our Constitution in the Preamble states, we:

“...respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity

for advancement on the basis of recognition of merit, ability and integrity;”

The merit of the contribution of Sen. Gibbs-Mohammed cannot be questioned. [*Desk thumping*] The integrity of the contribution of Sen. Gibbs-Mohammed cannot be questioned. I have already established, by her competence, she has knowledge in the environment. [*Desk thumping*]

Madam President, the hon. Leader of the Opposition minority in the Senate says that we have driven to the lowest level; to the lowest level?—and that this contribution in the Senate should not have gone unnoticed, but we have done that. You know, Madam President, I want to—[*Interruption*—the hon. Sen. Dr. Lester Henry is indicating to me that we should bring a landless person to represent, but

the Member will recall that there was a Senator from central Trinidad who was the president of the Land Tenants and Ratepayers Association—

Sen. Al-Rawi: Abdul Wahab!

Sen. The Hon. G. Singh: Abdul Wahab, who was brought into the Senate to deal with issues dealing with the National Land Tenants & Ratepayers Association, when they had a special interest in the legislation. [*Desk thumping*] Voice of the people is the voice of God. [*Crosstalk*]

I want to deal with this issue of driving institutions to their lowest level.

Sen. Robinson-Regis: “You and I here the same length of time”, the same knowledge.

Sen. The Hon. G. Singh: Madam President, you cannot equate the contribution of the hon. Senator with demeaning this institution called the Senate, in the bicameral Parliament of Trinidad and Tobago. In fact, this Senator in her contribution, Sen. Gibbs-Mohammed in her contribution, uplifted the Parliament and made it relevant [*Desk thumping*] to the society that we live in.

Sen. Dr. Tewarie: It is known as representation.

Sen. Robinson-Regis: Representation what? “Wat you talking about?”

Sen. The Hon. G. Singh: You see—[*Interruption*]

Sen. Robinson-Regis: Why you did not bring her in from 2010?

Sen. The Hon. G. Singh: Madam President, so I just rose to say these few words, [*Crosstalk*] [*Laughter*] because I felt that what—I could not allow to go unchallenged, and not be able to assert the right of Sen. Cindy Gibbs-Mohammed to speak truth to the nation in the context of the gambling and betting legislation. [*Desk thumping*]

It was my intention, Madam President, to rise to indicate that in accordance

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with Standing Order 36(3), I beg to move that the debate on the Gambling (Gaming and Betting) Control Bill, 2015 be adjourned.

Sen. Robinson-Regis: So, it was your intention?

Sen. The Hon. G. Singh: It was my intention prior to you speaking.

Sen. Robinson-Regis: So, you are doing it now?

Sen. The Hon. G. Singh: Yeah, I am doing it now. Madam President, in accordance with Standing Order 36(3), I beg to move that the debate on the Gambling (Gaming and Betting) Control Bill, 2015, be adjourned.

Question put and agreed to.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

[Fifth Day]

The committee of the whole Senate resumed its deliberations on the Bill.

[Chairman: Sen. Ahmed]

Madam Chairman: As we go into committee, I want to ask for a suspension for a period of 10 minutes.

3.30 p.m.: *Committee suspended.*

3.41 p.m.: *Sitting resumed.*

Madam Chairman: Hon. Senators, committee stage is resumed.

Yesterday we started discussion on clause 107, we need to continue, starting with the amendment, Attorney General.

Sen. Nicholas: Madam Chair, for 107 there were some amendments circulated, and I believe we were making some amendments on the floor as well, if I am not mistaken.

Madam Chairman: Yes, we were.

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Sen. Nicholas: We were at the stage where—maybe I can just go through the amendments.

Madam Chairman: Yes, AG.

Sen. Nicholas: So that in 107(1), we had removed “person with” as it pertains to disability parking permits, so that it would read:

The Authority may issue a disability parking permit to a person with disability where a—and we removed “qualified” because “medical practitioner” was defined—medical practitioner certifies on the prescribed form that the applicant is a person with disability and specifies the anticipated length of time that the immobility is expected to continue if known.

In 107(2), we would have deleted “person with” in front of “disability parking

permit”. In 107(3), again in the first line we would have deleted “person with”. In the second line that starts “to any”, we have deleted “entity, organization or corporation” and substituted that with “person” and continue to read:

“...in respect of a number of vehicles that are owned or leased by, or operated on behalf of the”—and again delete “entity, organization or corporation” and insert “person”. To continue reading:

“primarily to provide transportation services to persons with disability”.

In 107(4) we would have deleted “person with” after “A”; 107(5), we would have deleted “person with” after “A”; and in (5)(a) which reads:

“for a period of three years, where a medical practitioner certifies”, we would remove “the” and insert “permanent”. So that it would read:

for a period of three years where a medical practitioner certifies permanent immobility.

Clause 107(6) is to be deleted. Those are the amendments proposed.

Sen. Roach: Madam Chair, through you, please. Attorney General, could you just clarify for me, what is the significance of specifying in 107(1) where it says that a person with disability and specifies the anticipated length of time that the immobility is expected to continue if known. If not known, what is the situation? If known or if not known, what is the significance? If not known what happens?

Sen. Nicholas: If it cannot be determined as a permanent disability then it would have to be treated as a temporary one.

Sen. Roach: But to me that really cannot make sense. If I were to just draw from my own personal circumstances here. This has been going on for four years; it is not certain whether this is going to be permanent or not. I am incompletely paralyzed. There are persons who are completely paralyzed, like Dr. Kriyaan Singh, but I am incompletely paralyzed, but I could be paralyzed for the rest of my life. Doctors still cannot say at this point in time, yes I will be for whatever duration or period of time. So this is not temporary in its existence. So to be treating somebody in that kind of thing to me is putting an unnecessary limitation.

Sen. Prescott SC: Maybe I could at this stage share it with committee. I whispered this to the hon. AG yesterday. A friend of mine who is himself confined to a wheelchair, has suggested that the current lexicon is to use the word “impairment” and not “disability”, where it is appropriate. This might be a time for us to start looking at it, because it allows for the categories that Sen. Roach has just identified. I forgot how he put it—did he say totally disabled or permanently disabled, I do not recall. But impairment allows you a greater freedom to identify any particular deficiency or all at the same time.

Sen. Nicholas: The Government has actually examined the many different

terms that are used and have actually decided to use the term “disability”.

Madam Chairman: Any other concerns?

Sen. Drayton: Just in following Sen. Roach’s concern. Probably we can say temporary without necessarily going into two months or three months, but temporary until such a time if the person’s status has changed, rather than go into two or three months or try to put some sort of a time frame. I think that would be treating the matter in a far more appropriate way.

Sen. Nicholas: Certainly what we have allowed—and I could see Sen. Roach’s point—in the temporary circumstance, is to issue a six-month permit. That permit is renewable on application, so it does not debar you from extension. It is just that there needs to be some kind of guideline for the issuance of these permits, and we would not want a situation where someone is temporarily immobile and they are given a three-year permit, because then that defeats the whole purpose. We are left with one way of determining that immobility and that is through medical advice. So where the doctor is uncertain, the doctor may be able to say it could last for three years or maybe two years, or more than six months. Of course that could be taken on board for the issuance of the permit.

Sen. Drayton: I hear what you say, AG, but one of the things that worries me with what we have here and that suggestion, is that you have people who are temporary or maybe temporarily impaired. They are not better in three or six months, but to me you are putting a degree of hardship on them to have to get this renewed every six months. I want to make a suggestion. Why put the stipulation of the three or six months in the primary law? Why not find the appropriate terms that we could apply in the regulation, rather than specify three to six months in primary legislation, and probably we have to go back to change it within a short

space of time. But I think out of respect for these people and their time and the condition, rather than subject them to having to go back to get temporary parking permits renewed.

Hon. Cadiz: Senator, I think one of the things that we are looking at is where people, for instance, are involved in accidents, they cannot walk, and they are on a wheelchair to move around. That particular condition is known, because you broke your two legs or whatever it is and therefore we know it is going to take four or five months to heal or whatever it is. That is where that would come in. Persons who are considered persons with a disability you would find that in the majority of cases it will be the extended period, but there is a short-term that we were looking at for persons who do, in fact, suffer a temporary disability by way of an accident.

Sen. Drayton: A lot of accidents with respect to a joint, your back, your hip or something like that, is not three to six months. It is temporary, but the doctors would tell you it is usually a year, sometimes two years. So all I am saying is that, sure, have your conditions, but why put that in the primary legislation and not address that in the regulations, in a way that will be more appropriate to deal with the situation?

Sen. Nicholas: Madam Chair, we have heard Sen. Drayton and we have heard Sen. Roach. I would like to propose the following amendment pursuant to Sen. Roach's contribution, and that is to delete "if known" in 107(1). But I believe, with due respect to the other contributions, the numerous consultations and positioning of the Government on this issue, this is the way we would like to proceed, please.

3.55 p.m.

Madam Chairman: Any further concerns? AG, would it be appropriate to withdraw your amendment and we come with a new set of amendments to be taken now, as you read out?

Sen. Nicholas: Yes, please, ma'am.

Madam Chairman: Hon. Senators, the question is that clause 107 be amended a follows:

In subclause (1) delete the words "person with" after "a", delete the word "disabilities" after "with" in the second line, and substitute the word "disability" in that same line, delete the word "qualified" after "where a", in the third line, delete the word "disabilities" and substitute the word "disability", at the end of that paragraph delete the "," after "continue" and substitute a "." and delete the words "if known" after "continue".

In subclause (2), delete the words "person with" after "issue a"; in subclause (3) delete the words "person with" after "issue a" and after "disability parking permit to any" delete the words "entity, organization or corporation" in the third line after the words "on behalf of the", delete the words "entity, organization or corporation" and substitute the word "person", and at the end of that sentence delete the word "person" and substitute the word "persons", and delete the word "disabilities" and substitute the word "disability".

In subclause (4), delete the words "person with" after "a".

In subclause (5) delete the words "person with" after "a".

In paragraph A after the word "certifies" delete the word "the".

And subclause (6) is deleted entirely.

Sen. Nicholas: Madam Chair, when we delete the word "the" in (5)(a), we replace it with the word "permanent".

Madam Chairman: Okay, sorry. So, in subclause (5) paragraph A delete the word “the” after “certifies” and substitute the word “permanent”; and subclause (6) is deleted entirely.

Question put and agreed to.

Clause 107, as amended, ordered to stand part of the Bill.

Clause 108.

Question proposed: That clause 108 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 108 be amended as circulated:

Delete the words “person with” wherever they occur.

Question put and agreed to.

Clause 108, as amended, ordered to stand part of the Bill.

Clause 109.

Question proposed: That clause 109 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 109 be amended as follows.

Madam Chairman: That is different from your circulation?

Sen. Nicholas: Yes, please.

Madam Chairman: Okay, go ahead.

Sen. Nicholas: Clause 109(1), after “where a” we delete “person with”; 109(1)(b) after “altered or” we delete “has become”.

Madam Chairman: You are keeping the word “eligible”?

Sen. Nicholas: Yes, please, ma’am. Continuing along, “the person to whom the”, we delete “person with” before “disability parking permit”. In the following line that starts “shall as soon as is” we insert “reasonably” in front of

“practicable”; in 109(2) which starts “where a” we delete “person with”; in the following line that begins with “mutilated, defaced, altered or” we remove “has become”.

Continuing, “the Authority” we delete “may” and we insert “shall, application is made on the applicable fee specified in the” we insert “fifth” before schedule which continues “is paid,” and we delete “the fifth after”, and it continues on, “issue a duplicate permit to the applicant.”

Madam Chairman: Any other concerns with 109?

Sen. Cudjoe: Excuse me, Madam Chair, for clarification could you please read the new clause with changes made, please?

Sen. Nicholas: New 109(2) will read as follows:

“Where a disability parking permit is lost, stolen”—

Sen. Cudjoe: You are taking out “or”?

Sen. Nicholas: We should remove “or” and put a “,” after “lost, stolen, mutilated, defaced, altered or eligible, the Authority shall, where an application is made and the applicable fees specified in the Schedule is paid, issue a duplicate permit to the applicant.”

Madam Chairman: Hon. Senators, the question is that clause 109 be amended as follows:

“In subsection (1) after the word “a” delete the words “person with”, and in subsection (1), paragraph B, delete “after or” the words “has become”, and at the end of that...”—

Sen. Nicholas: Madam Chair, sorry for interrupting. There may be some lack of clarification in that what I have in my document is slightly different from persons with other documents, and I think that the Fifth Schedule is corrected in

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Road Traffic Bill, 2014 (cont'd)
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other documents, whereas it was not corrected in mine.

Sen. Cudjoe: We want you to read what you have and we can match it against what we have, since we have a different document.

Sen. Nicholas: Yes. So that the third line reads:

“Application is made and the applicable fee specified in the Fifth Schedule is paid,”

In my document I did not have the fifth before the schedule, I had it after so that is why I was correcting it, but you have the correct version.

Madam Chairman: Is that clear now? Any other concerns?

Hon. Senators, the question is that clause 109 be amended in subclause (1) deleting the words “person with” after “a” in paragraph B by deleting the words “has become” after “or”, at the end of that sentence inserting the word “reasonably” after “is”, so that it reads, “is reasonably practicable”; in subclause (2) deleting the words “person with” after “a”, inserting after “lost” in the first line, deleting the word “or” after the word “altered or” in the second line, delete the words “has become”; continuing in that line, delete the word “may” after the word “Authority” and substitute the word “shall”.

Question put and agreed to.

Clause 109, as amended, ordered to stand part of the Bill.

Clause 110.

Question proposed: That clause 110 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 110 be amended as follows, clause 110(1), which starts, “The Authority may” after “may” we remove “cancel” and insert “revoke”; (a) remove “person with”.

In 110(2) which reads, “The Authority shall prior to”, we remove

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“cancellation” and insert “revocation prior to revoking”, we remove “cancelling” and insert “revoking”; (a) we remove “person with a disability parking permit under subsection (1), give the holder of the permit written notice” and we insert “with reasons”—

Madam Chairman: Read that again.

Sen. Nicholas: “The Authority shall prior to revoking a disability parking permit under subsection (1), give the holder of the permit written notice with reasons of its intention to cancel his permit after two weeks for the date to revoke.”

So, we will remove “cancel” there and insert “revoke”, so it will read:

“Of its intention to revoke his permit after two years from the date”—

Madam Chairman: “Two weeks”.

Sen. Nicholas: “Two weeks from the date that the notice was served”, and we will insert “and require that the holder of the permit gives reasons in writing why the permit should not be revoked”. And we will delete 110(3) and insert a new 110(3) which reads as follows:

“Where the holder of the permit fails to give written reasons within the period specified under subsection (2), or the reasons given were not satisfactory, and the Authority, after taking into consideration”—

Madam Chairman: After consideration?

Sen. Nicholas:—“any factors in mitigation, decides to revoke the permit, the Authority shall in writing notify the holder of the permit of its decision.”

4.10p.m.

Madam Chairman: Hon. Senators, the question is that clause 110 be amended as follows:

In subclause (1) delete the word “cancel” after “may” and insert the word

“revoke”, and after the word “a” delete the words “person with”.

In subclause (2), delete the word “cancelling” after “prior to” and insert the word “revoking”. And after “a” delete the words “person with”.

In the second line, insert the words “with reasons” after the words “written notice”, and delete the word “cancel” after “intention to” and insert the word “revoke”. After the word “served” delete the “.” and insert the words “and require that the holder of the permit gives reasons in writing why the permit should not be revoked”. And delete subclause (3) and insert a new subclause (3) which reads:

“Where the holder of the permit fails to give written reason within the period specified under subsection (2), or the reasons given were not satisfactory and the Authority after taking into consideration any factors in mitigation, decides to revoke the permit, the Authority shall in writing notify the holder of the permit of its decision.”

Sen. Cudjoe: Before you proceed, Madam Chair. Subclause (3) refers to a time frame in subclause (2) that was not mentioned. The only time frame given in subclause (2), if I am reading this thing right, is for the Authority to give the driver, or the holder of the permit, the reasons within two weeks, but it does not specify a time frame for the holder of the permit to respond. But in subclause (3) you are saying, if they do not respond within this time stated in subclause (2), but you did not mention a time in subclause (2) for the holder of the permit to respond. Do you see what I am talking about? Read (2).

“The Authority shall, prior to revoking state their reasons”—and so on within two weeks and then they require that the holder replies, but it does not say within a time frame for the person to reply. But in (3) you are saying, if they do not adhere to this time frame, which you never mentioned in (2). You follow?

The time specified in (2) is only for the Authority. There is no time specified for the holder of the permit.

Sen. Nicholas: Okay. Then we can amend (3), the new (3), as follows, so it will read:

“Where the holder of the permit fails to give written reasons within two weeks”—and remove “the period specified under subsection (2)”.

Sen. Cudjoe: But that must be within two weeks of what? Within two weeks of receiving your notice from the Authority.

Sen. Nicholas: Yes.

Sen. Cudjoe: So we have to word that smooth.

Sen. Nicholas: “Within two weeks of receipt of the notice”—

Madam Chairman:—“receipt of notice”.

Sen. Nicholas: “receipt of notice under subsection (2).”

Madam Chairman: AG, does it imply that when you, in subclause (2), put in that time period of two weeks, you are advising the individual that there is an intention to revoke two weeks from the date that you have been served? Does it not imply that that is the two-week period within which you will require your response? Does it not follow?

Sen. Cudjoe: No. It does not say that.

Sen. Nicholas: To be fair, it does not say that, so we will just clarify it and give the words.

Madam Chairman: Okay. So just to correct the new subclause (3), which shall now read:

“Where the holder of the permit fails to give written reasons within two weeks of receipt of notice under subsection (2)...”.

Sen. Nicholas: Yes.

Madam Chairman: “or, the reasons given were not satisfactory and the Authority, after taking into consideration any factors in mitigation decides to revoke the permit, the Authority shall, in writing, notify the holder of the permit of its decision.”

Question put and agreed to.

Clause 110, as amended, ordered to stand part of the Bill.

Clause 111.

Question proposed: That clause 111 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 111 be amended as follows:

111(1) which reads: “A person who has not been issued with a” — “person with” be deleted.

111(1)(a) which reads: “stop, leave, stand or park a vehicle in a parking zone designated for a person with” — “disabilities” be deleted and “disability” be inserted. And a “.” be inserted after “disability”, and everything else, including subclause (b), be deleted.

And 111(2) to read: “A person shall not” — and “wilfully” be inserted — “destroy, mutilate, deface or alter in any way” — “person with” be deleted.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Just two points, mainly of clarification. Under item (b), “display, cause or permit to be displayed” — a permit that has been cancelled. Now, when a permit is cancelled, is there any physical retrieval by the Authority, or is it just a notice of cancellation?

Sen. Nicholas: We are deleting subclause (b).

Sen. Drayton: You are?

Sen. Nicholas: Yes.

Sen. Drayton: Then the next question which, again, is just an enquiry. Is it the intent of this clause that a disabled person could be imprisoned for nine months for displaying a cancelled permit?

Sen. Nicholas: (b) is deleted.

Sen. Drayton: Or for parking? That is (3). Is (3) also deleted?

Sen. Nicholas: No. So that there is no issue with regard to displaying a cancelled permit. It does not form part of the clause.

Sen. Drayton: That is not the question. I am asking whether under (3)—it says:

“A person who contravenes this section”—let us forget (b) for the time being—“commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment...”

So that if a disabled person parked inappropriately or whatever, is the intent too that they could be imprisoned for nine months?

Sen. Nicholas: If anyone parks in a disability bay without a disability parking permit, then they contravene this section and on summary conviction will be entitled to be fined \$5,000 or imprisonment of nine months.

Sen. Drayton: Okay. So it does not refer to a disabled person.

Sen. Nicholas: Any person.

Sen. Drayton: Any person.

Sen. Nicholas: Yes.

Sen. Drayton: Thank you.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Hon. Attorney General, I gather that what is being asked is whether there is any humane consideration that could be given, either by yourself or by the magistrate before whom this comes, for treating with somebody who may have forgotten their permit, may not have—

Sen. Nicholas: Sen. Prescott, as you are well aware—

Sen. Prescott SC:—known that it expired, that kind of thing.

Sen. Nicholas: These are maximum fines and sentences so that the magistrate will always have the ability to take—

Sen. Prescott SC: You think the police officer could have that authority too? Make that determination on the spot? An excuse has been given. Let us use by analogy, the person who forgets his driving permit at home. I think yesterday we were saying such a person may have 24 hours to produce his permit. Would we be able to extend—

Sen. Nicholas: The law says a person who has not been issued. So you were never issued. So you do not hold one.

Sen. Prescott SC: Well, the police officer is unlikely to accept a statement from the person who says, “I have been issued with one. I forgot it at home, officer”. Or, “I am in the wrong car today”. So I am just wondering whether we could put our minds to making it possible for such a person to produce it and not to have to go to court to demonstrate.

Sen. Nicholas: The normal defence would be that it was issued, and once they show evidence that it was issued—

Sen. Prescott SC: Okay. I will make a last effort at it. Can we open our minds to consider whether at the point that the incident appears to have happened, the officer may have a discretion to say to such a person, “I hear you say that you

have been issued with one, please demonstrate that. Prove it within the next 24 hours”.

Madam Chairman: Sen. Vieira.

Sen. Vieira: If I may, I think there is an answer in clause 111 because that clause allows a person to have as a defence where he stops, leaves, or parks in a parking zone, unless that person stops, for the purpose of transporting a person with disability. So he said, look—

Sen. Nicholas: No, that has been removed.

Sen. Vieira: Oh, you are removing that?

Sen. Nicholas: Yes.

Sen. Vieira: That might have been a defence.

Sen. Nicholas: We are removing from “disability” in (a).

Hon. Cadiz: Senators, the thing is, I mean, I have been stopped by a—I was asked to produce my driving permit only to find out it was expired. It was expired a year ago. This is not being in this office, so I did not have any pull. And the officer said, “Look, just go down to St.James and go fix your business”. All right? So, I mean, there are going to be circumstances where a police officer, seeing a person with disabilities, I am pretty sure is going to be lenient. But other persons—and we see it all the time now. You constantly see people, very able people, with no person with disabilities in their vehicle, parking in these spots. In other jurisdictions, if you forget your parking permit at home, you do not park in that place. It is plain and simple.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Thank you. Let me get their attention first, if I can. I was saying, both Minister and to the AG, in the very same vein that we approach

the production of a driving permit within 24 hours, can we give some consideration to making a similar provision here?

Sen. Nicholas: Sen. Prescott, through you, Madam Chair, we are prepared to go even two steps further, and I think both Sen. Roach and yourself and others, would be very happy to hear that the Government has decided that imprisonment for this offence is not necessary and, therefore, we will leave it as just a fine, and that way it gives ample opportunity to prove before you pay your fine.

Madam Chairman: Sen. Regis.

Sen. Robinson-Regis: I just wanted to ask a question. Why did you consider imprisonment in the first place, then?

Sen. Nicholas: Really and truly, because we wanted to tie-in the fine with—I think it is sort of usual to put an imprisonment—

Sen. Robinson-Regis: A fine and a custodial sentence.

Sen. Nicholas: Yes, custodial sentence. But I think, having quickly looked at it, it is not appropriate in this clause.

4.25 p.m.

Madam Chairman: Sen. Vieira.

Sen. Vieira: But to be fair to the draftsman, when Sen. Kriyaan Singh spoke, he was outraged at what goes on in Trinidad with people taking advantage of parking spaces, exploiting it. I think left to him, he would be quite happy to throw them into prison.

Sen. Nicholas: For two years.

Hon. Cadiz: Again, in other jurisdictions you see there is listed on the parking space sign what the fine is.

Madam Chairman: Any other concerns with 111? Hon. Senators, the

question is that clause 111 be amended as follows:

In subclause (1) delete after the words “issued with a” the words “person with”.

In paragraph (a) under subclause (1) delete the words “person with disabilities” and insert instead the word “disability”.

Sen. Nicholas: No. Just deleting “person with”.

Madam Chairman: Just delete the words “person with”? Sorry.

Delete the word “disabilities” and substitute the word “disability”, and insert a “.” after “disability” and delete everything to the end of paragraph (b).

Sen. Prescott SC: Chair, in the circumstances, may I enquire whether the AG agrees that it would not be necessary to have an (a).

Sen. Nicholas: Yes.

Madam Chairman: So we delete the paragraph (a). So it will just be subsection (1). Thank you.

And subsection (2), to insert the word after “shall not”—

Sen. Prescott SC: No, I thought we were deleting it.

Madam Chairman: Pardon?

Sen. Prescott SC: I thought we were deleting all of subsection (2)

Sen. Nicholas: No, we are maintaining subsection (2).

Sen. Prescott SC: Okay.

Madam Chairman: In subsection (2) insert the word “wilfully” after “shall not”.

Sen. Nicholas: And delete “person with” after—

Madam Chairman: And delete “person with” after “in any way a”.

Sen. Nicholas: And delete “and to imprisonment for nine months.”

Sen. Prescott SC: In (3)?

Sen. Nicholas: In (3).

Madam Chairman: And in subclause (3) after the words “thousand dollars” insert a “full stop” and delete the words “and to imprisonment for nine months”

Question put and agreed to.

Sen. Nicholas: Madam Chair, before we move on to Part IX, may I suggest that we renumber—

Madam Chairman: Could I just take the vote?

Sen. Nicholas: Sorry.

Clause 111, as amended, ordered to stand part of the Bill.

Madam Chairman: Now you may.

Clause 112.

Question proposed: That clause 112 stand part of the Bill.

Sen. Nicholas: Before we get to 112, I would like to suggest that we renumber, having deleted 105—

Sen. G. Singh: No, that consequential—no, we said we will continue as is.

Sen. Nicholas: Why I asked that is because I can fix it now. In that I want to insert another clause after 111.

Madam Chairman: You want to make a new 112?

Sen. Nicholas: Yes.

Madam Chairman: New clauses have to be taken after we take the entire Bill—

Sen. Prescott SC: To stick a pin.

Madam Chairman:—then we could insert a new clause.

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Sen. Nicholas: Okay. Very well.

Sen. G. Singh: But advise as to what the content of that clause is so you could guide us.

Sen. Nicholas: A new clause that says:

The Authority shall cause to be kept and maintained a register of persons issued with disability parking permits.

That is new 112(1). And 112(2):

The contents of the register under subsection (1) shall for the purposes of all proceedings in a court, the evidence on the face of it of all information contained therein and extracts of the register purporting to be certified as such by the registrar, or its authorized office shall be admissible in evidence in court.

Sen. Vieira: AG, if I may? I had raised that very point when we were talking about the diplomatic missions and personnel, and I asked about whether we would have different registers and I was told we were just going to have the one. It seems to me that there may really be a need to have different registers. And exactly what you are talking about should apply for the diplomatic type of vehicles for the disabled and what have you. I like what you are doing, but I am just thinking just do not restrict it to the disabled.

Sen. Prescott SC: May I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: AG, you may want to consider looking at clause 107 as a place to put the reference to the register and the evidence. It might avoid us having to introduce a new clause. 107 deals with the issue.

Sen. Nicholas: If we insert it here, then we actually close the numbering because we removed 105.

Sen. Prescott SC: It does not seem to look that way, but give some thought to it.

Question put and agreed to.

Clause 112 ordered to stand part of the Bill.

Clause 113.

Question proposed: That clause 113 stand part of the Bill.

Sen. Nicholas: Ma'am, we have not actually dealt with 112. That was supposed to have been a new clause 112, but we are not—

Madam Chairman: No, no, do not get mixed up with the new numbers. We are dealing with the old Bill.

Sen. Nicholas: Okay. So if we are dealing with the old Bill, we are now to 112 is my point.

Madam Chairman: No. You made your intervention prior to 112 where you hoped that I would not be aware that Standing Order 53(6) requires that you bring in new clause after all of the clauses have been disposed of.

Sen. Nicholas: Ma'am, you pointed that out very clearly and then I was asked to state what the clause that I proposed to bring further down was—

Madam Chairman: So that was for information.

Sen. Nicholas: That was for information purposes. So that is why we are now on 112.

Madam Chairman: Yes, which we just passed.

Hon. Cadiz: We are back to the old numbering.

Madam Chairman: You had no proposal for 112.

Sen. Nicholas: I do.

Sen. Prescott SC: Indulge us.

Madam Chairman: Would you like to request that I reopen 112?

Sen. Nicholas: Yes please, Ma'am.

Madam Chairman: Certainly, AG.

Clause 113 deferred.

Clause 112 recommitted.

Question again proposed: That clause 112 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 112 be amended as follows:

That where the word "vehicle" appears that "motor" be inserted before it.

Madam Chairman: Wherever?

Sen. Nicholas: Wherever "vehicle" appears "motor" be inserted before it.

Sen. Prescott SC: Madam Chairman, may I disturb the AG?

Madam Chairman: Yes.

Sen. Prescott SC: Could you possibly get an up to date version of the thing, because we have one that says motor vehicles already. Are you ahead of us or behind?

Madam Chairman: No in the second line "vehicle" exists by itself.

Sen. Prescott SC: But he says wherever the word "vehicle" appears.

Madam Chairman: Right. So it starts off with "all motor vehicles" and in the second line it says "passenger in the vehicle" before the "vehicle".

Sen. Prescott SC: And we should say what?

Sen. Nicholas: So I should need to clarify. Except for the first motor vehicle. So in the first line there is "motor vehicle", following on from that there is only "vehicle" and we are to insert "motor" before all of those vehicles.

Sen. Prescott SC: So it will now read:

“All motor vehicles shall be fitted with a seatbelt for the driver and every passenger in the motor vehicle before the motor vehicle is registered.”

Sen. Nicholas: Yes. Because we are dealing with motor vehicles as opposed to all vehicles.

Sen. Vieira: But we are also excluding hired vehicles, maxi-taxis—

Sen. Nicholas: Yes, which will be dealt with.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Thank you. I just thought it was an unnecessary change because that particular subclause says “all motor vehicles”. Therefore, when you go on to speak of “passenger in the vehicle”, you mean that very motor vehicle. “Before the vehicle is registered”, you mean that very vehicle.

Madam Chairman: Thank you, Sen. Prescott. AG?

Sen. Nicholas: The thing is, Madam Chair, passenger vehicles and all of those other vehicles fall under the category of “motor vehicles”, but there are some vehicles that fall outside of “motor vehicles” that are not to be included. So that is why “motor vehicles” cover everything. So that motorbike, motorcycle will not be included.

Madam Chairman: But the proposition was that “motor vehicles” exist in your beginning, subclause (1), that where a vehicle obtains it will imply a motor vehicle.

Sen. Nicholas: Indeed. So that I will go through each one of them.

Hon. Senators: No.

Sen. Nicholas: Oh. Okay, I hear what you are saying, but I was actually seeking to clarify. Based on the experience in this Bill, we sought to clarify specifically.

Sen. Prescott SC: Let us leave it where it is.

Sen. Nicholas: Oh, I am very happy to hear that. Very happy to hear that.

Madam Chairman: What is your decision?

Sen. Nicholas: So it can stay as is. We can forego the amendment, Madam Chair.

Madam Chairman: Thank you, AG.

Sen. Nicholas: So very happily.

Question put and agreed to.

Clause 112 again ordered to stand part of the Bill.

Clause 113 reintroduced.

Sen. Nicholas: Madam Chair, I beg to move that clause 113 be amended as circulated.

Clause 113(1) Delete the words "section 112(2)
and substitute the words "section 112(3).

Madam Chairman: Sen. Prescott?

Sen. Prescott SC: Sorry. I was speaking too loud not realizing you would be hearing. Forgive me.

Question put and agreed to.

Clause 113, as amended, ordered to stand part of the Bill.

Clause 114.

Question proposed: That clause 114 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 114 be amended as circulated.

Delete subclause (2) and substitute the following clause:

“(2) Subject to section 115, the driver of a vehicle referred to in

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section 112(1) shall not without reasonable excuse drive a vehicle while there is in the vehicle, any passenger less than seventeen years of age and not wearing a seatbelt.”

Sen. Prescott SC: Chair?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Do forgive me. I find clause 114(3) oppressive. It imposes a fine of \$2,000 for failure to wear a seatbelt, but the driver of a vehicle where a passenger is not wearing a seatbelt is going to be in some difficulties, is he not?

Sen. Nicholas: Only if the passenger is less than 17 years old.

4.40 p.m.

Sen. Nicholas: Only if the passengers are less than 17 years old.

Sen. Prescott SC: Or sorry, that is the one that has been amended?

Sen. Nicholas: Yes.

Sen. Prescott SC: Oh, so he has control over people who are in his vehicle who are 17 or under.

Sen. Nicholas: Yes.

Sen. Prescott SC: Thank you very much, in that case. There is one more. Is it intended in 114(5) that it should be the Minister or the Authority there, in making the regulations?

Sen. Nicholas: The Minister.

Sen. Prescott SC: In 112(2), the Authority has the power to exempt certain vehicles from being fitted with seat belts and I wondered whether this is an error. It is not?

Sen. Nicholas: No, it is not.

Sen. Prescott SC: That the Minister may make regulations exempting persons, the Authority will exempt vehicles.

Sen. Nicholas: Yes.

Sen. Prescott SC: Thank you.

Question put and agreed to.

Clause 114, as amended, ordered to stand part of the Bill.

Clause 115.

Question proposed: That clause 115 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 115 be amended as follows:

Clause 115(3) which reads:

“Subsection (1)(b) shall not apply to the driver of a public service vehicle.”

I wish to include after “vehicle”, “when the vehicle is being used for a public purpose”.

Sen. Small: Madam Chair, through you. I do not agree with 115(1)(a). I am trying to think of, in my mind, Madam President, and through you to the AG, what reasonable excuse you could have for having a child unrestrained in a car? And in every other statute, in every other place I looked at, there is no question as to whether or not a child should be restrained in a car. There is no question. You go anywhere else, you look at what the—there is no—I hear this.

Up to this morning, I am driving on the highway and I am seeing someone with a four/five-year-old standing on the hump in the car. People do it without understanding how dangerous it is. I do not know what reasonable excuse you could have for having a child not being restrained in a car.

Sen. Nicholas: It is for medical purposes and it is dealt with in the section.

Sen. Small: It is only for medical purposes?

Sen. Nicholas: Yes.

Sen. Prescott SC: Clause 115(1)(a) says, you:

“...shall—

not, without reasonable excuse, drive a vehicle while there is in the front seat of the vehicle a child of five...”—to seven years of age.

Is that it?

Hon. Cadiz: A child of 5 years.

Sen. Prescott SC: A child of five. How is that different from the offence in 114(2) for persons under 18? Are they the same people?

Hon. Cadiz: Clause 115 speaks of a child that would be in a seat.

Sen. Prescott SC: In a front seat?

Hon. Cadiz: Whether front seat or rear seat, the child under five would be in—

Sen. Prescott SC: Clause 115(a) says “front seat” and it says “five” to seven; 114 says front seat under 18, and I thought the two must be the same kind of person.

Sen. Nicholas: No, how would it be the same kind of person?

Sen. Prescott SC: A person under 18 and a person five to seven are in the same category. Are they not?

Hon. Cadiz: No, but 114(2) does not refer to front or back.

Sen. Prescott SC: 114(2) says:

“...drive a vehicle while there is...”

Hon. Cadiz: It is not front or back.

Madam Chairman: It says in the different seat.

Sen. Prescott SC: Ohhh, so the distinction here is front seat person—we are now dealing with front seat only.

Sen. Nicholas: Yes.

Sen. Prescott SC: I see. And therefore in (b), that is also a reference to the front seat? 115(1)(b):

“...a child—

(i) under six months of age, is restrained in a properly fastened and adjusted, rear-ward facing...”

Hon. Cadiz: Yes.

Sen. Prescott SC: In the front seat?

Hon. Cadiz: No.

Sen. Nicholas: No, no, only the (a) deals with front seat.

Sen. Prescott SC: Okay, so any child under six months of age in a vehicle must be in a properly fastened and adjusted rear-ward facing child restraint.

Hon. Cadiz: “rear-ward facing” would be a back seat rear-ward facing.

Sen. Prescott SC: You are in the back facing down the road, but you in the front, you are doing the same thing. You are facing where you just came from. (b)(i) says if you are under six, you will be in the vehicle, the Minister has told me it does not matter whether it is front or rear and you must be—

Hon. Cadiz: No, no, the 17-year-old in 114(2) is anybody under 17, front seat or rear.

Sen. Prescott SC: And I have left that. I am now dealing with 115(1)(b). Does it refer to front seat or rear seat?

Hon. Cadiz: Well, what we are saying here is without reasonable excuse, drive a vehicle—

Sen. Nicholas: Actually, let me help you. It does deal with front seat.

Sen. Prescott SC: This is limited to front seat only?

Sen. Nicholas: Yes, they are all front seat.

Sen. Prescott SC: Is it necessary to say that clause 115 is a front-seat clause? Because (b) can equally apply to the rear and I have not yet seen it, but I imagine you can put a child in the rear and let it face the back windshield all the time. Is that what you want?

Hon. Cadiz: In fact, that is the correct position.

Sen. Prescott SC: So (b) is not limited to front seat?

Sen. Nicholas: No, because you have b(iv). So that 115(1)(a) deals with all children under the age of five years.

Sen. Prescott SC: Under the age of seven? Or between the age of five and seven?

Madam Chairman: Five to seven, not with a reasonable excuse seated in a front seat.

Sen. Prescott SC: Five to seven.

Madam Chairman: With reasonable excuse.

Sen. Prescott SC: Yeah. Is that not right, AG? 115(1)(a) speaks to children five to seven.

Sen. Nicholas: Just now, give me one second.

Sen. Vieira: AG, I do not understand what the problem is. To me, it is clear.

Sen. Nicholas: I am trying to find out where the five to seven is coming from.

Sen. Prescott SC: I do not know where I got it either.

Sen. Vieira: 115(1)(a) says you cannot drive while there is a child under five in the front seat.

Sen. Nicholas: Yes, that is what my own is saying.

Sen. Prescott SC: So there is no seven.

Sen. Nicholas: There is no seven.

Sen. Prescott SC: I do not know where I got that, sorry.

Sen. Vieira: 115(b) talks about a child must be in a restraining harness. Usually, the restraining harness will be in the back seat but you could have some restraining harnesses in the front seat. It really is that the child under a certain age must be in a restraining harness. And (b)(4), not without reasonable excuse, seated in the front of the vehicle.

Sen. Nicholas: Well, that is what I was saying. But you see, I think I was a little confused with where Sen. Prescott was getting the five to seven.

Madam Chairman: But it is there in (iv). It says:

“...five to seven years of age...”

Sen. Nicholas: But that is (b)(4), but it does not deal with—

Madam Chairman: It is nowhere else.

Sen. Nicholas: Yeah. So that is a separate issue.

Sen. Prescott SC: So permit me to understand it, in 115(1)(b), if you are a child under six months of age, you may sit in the front—

Sen. Nicholas: You may not.

Sen. Prescott SC: This does not suggest that.

Sen. Nicholas: Yes, it does, because (a) speaks to:

“not, without reasonable excuse, drive his vehicle while there is in the front seat of the vehicle a child of five years of age and under...”

So b(i), b(ii) and b(iii) deal with child who are five years and under and b(iv) allows for someone five to seven to sit elsewhere if there is reasonable excuse to do so.

Sen. Small: Unrestrained.

Sen. Nicholas: Never unrestrained.

Sen. Small: Well, that is why I am not—I have a similar clarification around b(iv). A child between five and seven, even if in the rear, it should be restrained.

Sen. Nicholas: Well, 114(2) says specifically that you are not to drive a vehicle with anybody 17 and under in the vehicle without wearing a seat belt.

Sen. Prescott SC: May I again? Is it the view of the Attorney General and the Minister that a child between five and seven may sit in the front seat and wear a seat belt like any ordinary adult?

Hon. Cadiz: Yes, because typically, you would not have a seven-year-old child, because of the size of the child and the weight, sitting in a child's seat. But the preference is therefore the child to be in the rear unless there is reasonable excuse for the child to ride in the front.

Sen. Nicholas: So it is not the norm.

Sen. Prescott SC: Okay, very well.

Hon. Cadiz: And then anybody four and under has to be in a child-restraining seat.

Sen. Prescott SC: Five and under.

Sen. Nicholas: Yes.

Hon. Cadiz: Yes, five and under, sorry, yeah.

Sen. Prescott SC: Thank you.

Madam Chairman: Hon. Senators, the question is that clause 115 be amended as follows:

In subclause (3), after the words “public service vehicle”, insert the words “when the vehicle is being used for a public purpose”.

Question put and agreed to.

Clause 115, as amended, ordered to stand part of the Bill.

Clause 116.

Question proposed: That clause 116 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 116 be amended as follows, 116(1)(b):

After “helmet” that we delete “that is capable of providing protection from injury to the head” and insert “as prescribed by order”.

Sen. Prescott SC: So we delete what is here at the end?

Sen. Vieira: I was actually looking at that as the definition of safety helmet and I was going to link it to—well, my question was going to be, in the UK, they also make it an offence for somebody to sell a helmet which is not of the type approved or authorized by the Authority.

Sen. Nicholas: Yes, because we do not have that law here, I thought we would ensure that the helmet is of proper quality.

Hon. Cadiz: That will typically come under the Trinidad and Tobago Bureau of Standards.

Sen. Vieira: Okay, so as prescribed, it could work because they would define what a helmet is from time to time.

Hon. Cadiz: Yes, correct.

Sen. Vieira: Now, my other question was to do about eye protection where,

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because on a motor cycle—I do not know if you ever rode a motorbike, but you really should have on a goggles of some sort to protect your eyes. That was not there but that is important in the UK legislation and, as I say, whether or not we should deal with people who think they are buying a safety helmet and, in fact, it is an illusionary thing, it is not really going to give them any protection at all, making that an offence.

Hon. Cadiz: I do not think the Bureau of Standards would deal with that.

Sen. Nicholas: And you can prescribe that a visor be part of the Act.

Hon. Cadiz: The visor, yeah, and it is UL listed and what have you.

Madam Chairman: Hon. Senators, the question is that clause 116 be amended as follows:

In subclause 1(b):

Delete after the word “helmet”, the words “that is capable of providing protection from injury to the head” and insert the words “as prescribed by order”.

Sen. Prescott SC: Would you mind, Chair, I do not know how the technicians call it, that particular line that has been deleted, “that is capable of providing”, it does not only refer to 1(b), it refers to 1(a), so it will be incorrect to say that it is 1(b) that is being amended. Is that right? Am I making sense?

Madam Chairman: Well, we deleted after “safety helmet”.

Sen. Prescott SC: The words that come after (b) and we have replaced the words that come after (b) with “as prescribed”, as opposed to saying (b) has been amended.

Madam Chairman: I think I said after (b).

Sen. Prescott SC: If you did, then that is what I am thinking here.

Madam Chairman: If I did not, well, that is what I should have said, let

the *Hansard* record—

Question put and agreed to.

Clause 116, as amended, ordered to stand part of the Bill.

4.55p.m.

Sen. Vieira: Chair, I do not know how other Senators feel but this Part X, unless somebody has a particular problem with a clause I do not see why we cannot take it in a chunk because I have no problems with any of them.

Sen. Prescott SC: Yes, I am afraid not.

Sen. Vieira: No problem.

Madam Chairman: Senator, could you tell us which clauses you might have issues with?

Sen. Prescott SC: Yes, 120.

Madam Chairman: So could we take 117 to 119?

Sen. Prescott SC: Thank you.

Sen. Robinson-Regis: Can I ask a question, please? On 119(2), is there a specific time? Would the Attorney General entertain a specific time rather than the nebulous sufficient time? I do not know what that would mean, if it is six months, three months or—

Sen. Nicholas: While we are there, may I propose that after “The Authority” in the second line, it reads:

Where the premises of the applicant under subsection (1) does not meet the requirements of this Act, the Authority shall state the defects in writing and—

So I would like to insert “shall state the defects in writing” after “authority” and delete “if it sees fit”.

Madam Chairman: AG, if you would allow me. Let us take clauses 117 to

118.

Sen. Nicholas: Yes Ma'am.

Clauses 117 and 118 ordered to stand part of the Bill.

Clause 119.

Question proposed: That clause 119 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 119 be amended as follows:

In subclause (2), after "the Authority" insert "shall state the defects in writing and" and after "may," delete "if it sees fit".

And with regard to the anticipated suggestion by Sen. Camille Robinson-Regis, because we would not know the extent of the defects, we thought it would be better to give "sufficient time" as opposed to "specific time".

Sen. Prescott SC: In 119(1), we speak of the applicant meeting the requirements of this Act or any other written law, as though he need not satisfy this Act if he can find some other act to satisfy. Is that intended?

Sen. Nicholas: And any other law.

Sen. Prescott SC: Although I am embarrassed by it, does the same thing apply in 118(2) the regulations made thereunder?

Sen. Robinson-Regis: Should it be "and"?

Sen. Nicholas: Yes. So we would beg the indulgence of the Chair appropriately.

Sen. Prescott SC: We should, should we not?

Sen. Robinson-Regis: With trepidation.

Madam Chairman: Question put that clause 119 be amended in subclause (2).

Sen. Robinson-Regis: Madam Chair, before you do that, could I just ask one other question on subclause (2)?

Madam Chairman: Certainly.

Sen. Robinson-Regis: Where you have “may” should it be “shall”?

Madam Chairman: That is the amendment.

Sen. Robinson-Regis: No, no, no.

Madam Chairman: Yes.

Sen. Robinson-Regis: Shall state the deficiency. Did you say “shall” or “may”?

Sen. Nicholas: “Shall” state and “may” give.

Sen. Robinson-Regis: So I am asking if it is “shall state” and “shall give”.

Sen. Nicholas: I think a discretion should be left with the Authority, depending on the circumstances.

Sen. Robinson-Regis: If I may. If you have stated what the defects are and the person has rectified the defects, should it not be “shall”?

Sen. Vieira: You could state the defects and not give any time at all because if it is incurable you shall state, but if it is that you are going to give him a chance you may give him time to get his act together.

Sen. Robinson-Regis: Or you may not.

Sen. Nicholas: You do not know the extent of the defects.

Sen. Prescott SC: Why would you want to give insufficient time?

Sen. Nicholas: We would not want to.

Sen. Prescott SC: It says he may give him sufficient. He may choose between insufficient and insufficient. Is that what it means? So you prefer “shall”?

Sen. Robinson-Regis: That is what I am saying.

Sen. Prescott SC: Sounds like it is making more sense.

Sen. Robinson-Regis: I am just putting it on the table for the consideration of the AG.

Sen. Nicholas: As Sen. Vieira pointed out, the defects may be incurable and, therefore, that would not arise. In any way I suspect they would be operating in good faith.

Sen. Prescott SC: Bona fide?

Sen. Nicholas: Bona fide.

Madam Chairman: Anymore concerns?

Sen. Robinson-Regis: But if it is incurable, whether it is “shall” or “may” he cannot get it anyway.

Hon. Cadiz: The thing is a garage owner might not have enough capital, for instance, at this time, to do the amount of work that would be required and he might say well look, I need another six months to be able to complete the work or he might need special permission from Town and Country to operate a particular thing or something.

Sen. Nicholas: I think in this circumstance we would prefer to go with “may”.

Sen. Vieira: Actually the answer is “may” should be used where a permission benefit, right or privilege is to be given. Now “the Authority shall state”, that is on them, but they may give that permission or authority, in terms of repair. So I think that is the correct formation.

Madam Chairman: The question is that clause 119 be amended in subclause (2) by inserting after the words “the Authority” the words “shall state the

defects in writing” and after the word “may” deleting the words “if it sees fit”.

Sen. Robinson-Regis: I am really sorry about this. Could I ask a question? If you are saying “and may give the applicant sufficient time”, so you may give sufficient time or you may give insufficient time. I am now getting back to your question.

Sen. Nicholas: We can remove “sufficient” if that would assist you. We have no difficulty in moving “sufficient” but I thought “sufficient” actually helped the applicant. Because then you can give any time. An officer might suggest okay, you do this in a week, whereas this could only be remedied in a month.

Sen. Prescott SC: I am just hoping to bring closure to it. It is a fact that the way it is written it allows the officer, the Authority to give time that really turns out to be insufficient. But the Attorney General has used the words “in good faith”. I think what we are really aiming at is it would be for the Authority to determine how much time should be given to repair, to put right. So maybe we could stay with “he may give sufficient time” and trust that it would only be interpreted as I am giving you what I regard as sufficient time. I suppose if somebody is unhappy he may challenge it.

Sen. Nicholas: If he were to appeal he could appeal on “sufficient time”.

Sen. Prescott SC: So maybe it could be left that way.

Question put and agreed to.

Clause 119, as amended, ordered to stand part of the Bill.

Madam Chairman: Hon. Senators, it is now 5.04, we shall take the tea break now and return at 5.45. The committee stage is now suspended.

5.05p.m.: *Committee suspended.*

5.45p.m.: *Committee resumed.*

Madam Chairman: Hon. Senators, committee stage is resumed. We wish to revisit clause 118 to make a minor change.

Clause 118 recommitted.

Question again proposed: That clause 118 stand part of the Bill.

Madam Chairman: The question is that we amend clause 118(2) after the words “regulation made thereunder” delete the word “or” and substitute the word “and”.

Question put and agreed to.

Clause 118, as amended, again ordered to stand part of the Bill.

Clause 120.

Question proposed: That clause 120 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 120 be amended as follows:

By deleting subclause 120(2) and in subclause (4), second line, where it speaks to “under subsection (3)” that “(3)” be replaced with “(2)” and that the subclauses be renumbered.

Sen. Al-Rawi: Madam Chair, may I enquire, through you, what the rationale for the deletion of subclause (2) is?

Sen. Nicholas: This provision is catered for in clause 121.

Sen. Al-Rawi: In clause 121?

Sen. Nicholas: Yes.

Sen. Al-Rawi: So that test driving is specifically under the ambit of vehicle trader registration plates? Which subsection may I enquire?

Sen. Nicholas: It is more of a general provision in 121 that allows for all of this to take place.

Sen. Al-Rawi: Sorry, AG, would you assist me? Clause 121 what?

Sen. Nicholas: Clause 121(3).

Sen. Al-Rawi: Then I see under 121(3)(c) demonstrating.

Sen. Nicholas: Correct.

Sen. Al-Rawi: Much obliged. Thank you.

Sen. Prescott SC: Chair, may I? Just two questions. Hon. Attorney General, could you help me? Are there conditions that are going to be applied regarding the state of premises in this vehicle trader registration certificate?

Sen. Nicholas: Yes, and the conditions would be stated in the regulations.

Sen. Prescott SC: In the regulations?

Sen. Nicholas: Yes.

Sen. Prescott SC: Okay, and secondly, in what is now (2), may I ask that the word with—

Sen. Nicholas: Subclause (2) is to be deleted.

Sen. Prescott SC: Yes, in what is now (2).

Sen. Nicholas: New subclause (2), okay.

Sen. Prescott SC: Where it says “shall contain such terms and conditions” can we say “with which a vehicle trader shall be required to comply” and delete the second “with”? Am I using the right one?

Sen. Nicholas: You are. We have no difficulty with that amendment.

5.50 p.m.

Madam Chairman: Any other concerns?

Sen. Prescott SC: Not with regard to that section, Ma'am.

Madam Chairman: Hon. Senators, the question is that clause 120 be amended as follows, by deleting subclause (2), renumbering subclause (3) to read

subclause (2) and subclause (4) to read subclause (3). And deleting in the new subclause (2), the word “by” after “terms and conditions” and inserting the word “with” and deleting after the words “required to comply”, the word “with”. And in the new subclause (3), after the words “under subsection” delete the number“(3)”.

Sen. Al-Rawi: And insert—

Madam Chairman: And insert the number “(2)”.

Question put and agreed to.

Clause 120, as amended, ordered to stand part of the Bill.

Clause 121.

Question proposed: That clause 121 stand part of the Bill.

Sen. Al-Rawi: Madam Chair. Much obliged.

Honourable Attorney General, the language in clauses 121(1), 121(2), and 121(4), perhaps if we could look at this:

“Subject to section 120 and subsection (2) a person shall not engage in the business of trading in vehicles unless that person is issued by the Authority with Vehicle Trader Registration Plates.”

So this is the adjunct on to the Certificate in 120.

“(2) “Where an applicant is issued with a Vehicle Trader Registration Certificate under section 120 he shall apply to the Authority and pay the fee specified in the Fifth Schedule to be issued with Vehicle Trader Registration Plates.”

Does that go so far as to say that the Authority should issue him the plates? Because what he does is he makes the application and he pays to be issued.

Sen. Prescott SC: “and shall be issued”?

Sen. Al-Rawi: Perhaps “and shall be issued” has been inadvertently

omitted.

Sen. Nicholas: Sure.

Sen. Al-Rawi: And then in subclause (4):

“A Vehicle Trader Registration Plates issued under subsection (1)...”

I was wondering about the use of “A” and “Vehicle”. Perhaps it should be with the deletion of the word, “A” and instead “Vehicle Trader Registration Plates issued”.

Sen. Nicholas: We have no difficulty with those.

Sen. Al-Rawi: And may I enquire whether these plates are intended to be transferrable from car to car? They are, yes? Much obliged.

Madam Chairman: Sen. Al-Rawi, what was your proposal?

Sen. Al-Rawi: It would be, Madam—

Madam Chairman: No, no, not in (4), in (3).

Sen. Al-Rawi: Not in (3).

Madam Chairman: In (2).

Sen. Al-Rawi: In (2), that it should—sorry. Yes, ma’am, in (2), “shall be issued”. So I am looking for language.

Madam Chairman: After Fifth Schedule?

Sen. Al-Rawi: Let me see where. “...he shall apply to the Authority and pay”—a prescribed—“fee...in the Fifth Schedule”—and shall be issued...

Madam Chair: Instead of “to be”?

Sen. Al-Rawi: Or appropriate language; “and shall”, yes, Ma’am. Instead of the word “to”; delete the word “to” and insert the words “and shall”.

Madam Chairman: Okay.

Sen. Prescott SC: Chair, may I?

Madam Chairman: Senator Prescott.

Sen. Prescott SC: In (3)(c), I want to recommend that the words “or any other purpose”, down to the end of the sentence be extended rather than form part of (c).

Madam Chairman: That the word?

Sen. Prescott SC: That the words, “or any other purpose as prescribed by the Authority”.

Sen. Al-Rawi: Be a (d).

Sen. Prescott SC: Should be either extended or be a (d); 121.

Sen. Al-Rawi: So that would be—

Madam Chairman: After “vehicle”, after “or”?

Sen. Al-Rawi: Yes, Ma'am, perhaps at (b) delete the word “or”, at (c) insert a “;” after the word “vehicle”, and then break the word from the words appearing after the word “or” and insert a subparagraph “(d)”, which would read, “any other purpose as prescribed by the Authority”.

Sen. Prescott SC: Yes.

Madam Chairman: AG?

Sen. Nicholas: No difficulty there, Madam Chair.

Madam Chairman: Any other?

Sen. Prescott SC: No.

Madam Chairman: Hon. Senators, the question is that clause 121—

Sen. Nicholas: Madam Chair, just one more, I thought my colleagues on the other side would require this, in subclause (5), to insert the word “wilfully” after the words “A person who”.

Sen. Al-Rawi: I was just turning the page to say that, much obliged. Thank

you.

Madam Chairman: The question is that clause 121 be amended as follows:

In subclause (2), after the words “Fifth Schedule”, delete the word “to” and substitute the words, “and shall”.

In subclause (3), paragraph (b), delete the word “or” after the word “sold”; and paragraph (c), insert a semicolon after the word “vehicle”, and delete the words, “any other purpose as prescribed by the Authority”, and insert a new subparagraph (d), which shall read “any other purpose as prescribed by the Authority”.

And subclause (4), delete the word “A” before the words “Vehicle Trader Registration Plates”, and in subclause (5) insert the word “wilfully” after the words, “A person who”.

Question put and agreed to.

Clause 121, as amended, ordered to stand part of the Bill.

Clause 122.

Question proposed: That clause 122 stand part of the Bill.

Sen. Al-Rawi: Only one question, Madam Chair.

Madam Chairman: Certainly, Senator.

Sen. Al-Rawi: Much obliged, Ma'am. AG, through the hon. Chair, may I enquire what happens if you do not apply within 30 days prior to expiring in subclause (2)?

Sen. Nicholas: We propose that “may” be inserted instead of “shall”.

Sen. Al-Rawi: Much obliged.

Madam Chairman: After the words “Vehicle Trader Registration Certificate” the word becomes “may”?

Sen. Al-Rawi: Sorry, I am not sure. I think the AG catches the mischief that I have in mind, which is we have prescribed a circumstance after which there ought to be a default, and the default is that you ostensibly have no certificate. But does it not also leave room for you to be reissued with one? Is the process any more complicated in obtaining a fresh certificate after the expiry of the 30 days? In other words then, what is the—

Sen. Nicholas: One suspects it would be easier to renew rather than to reapply.

Sen. Al-Rawi: The reason why I have asked is that in other sections we have contemplated what happens if you do not apply on time for your licence, et cetera. So I was wondering about, if I could call it, the grace period provisions that we have added in elsewhere, or a penalty provision if you have not.

Sen. Nicholas: No, in the other sections it was really, again, for convenience, and so that the requisite permits or certificates could have been processed in time.

Madam Chairman: I recognize Sen. Drayton.

Sen. Drayton: Just one question again, for clarification. Why does a vehicle trader need to have his certificate renewed every five years as an ongoing basis?

Sen. Al-Rawi: For inspection purposes?

Sen. Nicholas: Yes.

Sen. Drayton: This is an inspection of what?

Sen. Nicholas: Premises, all sorts of other things; compliance. Yes, it is important that when you are issuing a certificate that you do not issue an indefinite certificate.

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Sen. Drayton: Okay.

Sen. Prescott SC: Chair, I have a question.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Thank you. In clause 122, at 122(4)—pardon me. I thought it was a statement of an offence. Forgive me, wrong section. Thank you.

Madam Chairman: Hon. Senators, the question is that clause 122 be amended as follows: In subclause (2), after the words “Vehicle Trader Registration Certificate”, delete the word “shall” and insert the word, “may”.

Question put and agreed to.

Clause 122, as amended, ordered to stand part of the Bill.

Clause 123.

Question proposed: That clause 123 stand part of the Bill.

Sen. Prescott SC: Are we speaking of 123?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: The offence section, section 123(2), I thought that there might be need for some kind of notice to the trader for a breach of subsection (1). The failure to display the Vehicle Trader Registration Certificate in a conspicuous place.

Sen. Nicholas: I think the requirement is there.

Sen. Prescott SC: Yes, I am merely putting forward the view that this is such a minor breach of any kind of thing, it ought not to engage a person in criminality that he has omitted to hang it up.

Sen. Nicholas: We believe it is sufficiently—

Sen. Al-Rawi: Could I enquire how the VAT Act deals with it? There will be a similar term in it?

Hon. Cadiz: The VAT certificate says it needs to be displayed.

Sen. Prescott SC: And there is an offence, there is a penalty for not doing it?

Mr. Cadiz: Yeah.

Sen. Al-Rawi: In the VAT Act, yes. But the question of notice in the VAT Act may be worthwhile looking to.

Hon. Cadiz: I mean if you apply for vehicle trader, they are going to have certain conditions, and one of the conditions is that you have to display the certificate in a prominent place, so any, you know. So to trade, the people can see that you are a certified trader.

Sen. Vieira: I think the idea is to make sure that unscrupulous persons, and persons who are not legitimate, are not engaging in the trade. Otherwise they will say, well, you know, I just do not have my certificate at hand—

Hon. Cadiz: I forget it home.

Sen. Vieira: And give you a bill of goods.

Sen. Prescott SC: A notice of compliance might suffice, no? It is really a matter for you, AG.

Madam Chairman: Hon. Senators, the question is that clause 123—

Sen. Prescott SC: Maybe I should just press this a little further, if you would permit me?

Madam Chairman: Certainly, Sen. Prescott.

Sen. Prescott SC: If we look at clause 125(1), hon. Attorney General, we will note that it says:

“Where the Authority is of the view that the holder of a Vehicle Trader Registration Certificate has failed to comply with any requirement of this Act, the

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Authority may, if it sees fit, issue to the vehicle trader a Notice of Non-Compliance...”

Might clause 123 not fit neatly in there, rather than rush to vilify him and convict him of a crime? And then we can add to clause 125 what may happen in the event that you do not comply. As for example, you would not be able to trade.

Sen. Nicholas: We have heard you Sen. Prescott, but we would like to retain the clause as is.

Sen. Prescott SC: Okay, and so the final question on this is, does section 125(1) incorporate a failure to comply with the requirement to display your certificate conspicuously? Should we spend a day in court arguing over that?

Sen. Al-Rawi: I think the answer would be no, because a specific penalty is ascribed at clause 120. Senior, I am just suggesting that perhaps clause 123(2), because a specific offence is applied at clause 123(1), it is to be read differently from clauses 125 and 126.

Sen. Prescott SC: Yes, I agree. Thank you very much, Chair.

Question put and agreed to.

Clause 123, as amended, ordered to stand part of the Bill.

Clause 124.

Question proposed: That clause 124 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 124 be amended as follows:

In subclause (1), delete the words “or exchanged by him or received or accepted by him” and substitute the words “exchanged, received or accepted by him”.

Sen. Prescott SC: May I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: May I, in relation to clause 124(2)(a)(iv), suggest that it be broken up and a new (v) be created for the words:

“whether any numbers thereon have been defaced, destroyed or changed;”

So it should now read instead, new (v), “any changes”.

Sen. Nicholas: Accepted.

Sen. Al-Rawi: Deleting the word “and” from (iii), and introducing a “;” after “marks” and inserting the word “and”. And creating a new subparagraph (v), beginning with “whether any numbers”.

AG, may I enquire through you, Madam Chair?

Madam Chairman: Hon. Senators, could you please speak up a little bit into your microphones?

Sen. Al-Rawi: I am so sorry, Ma'am.

Madam Chairman: *Hansard* is having some difficulty.

Sen. Al-Rawi: Apologies.

Sen. Prescott SC: Thank you.

Sen. Al-Rawi: May I, Madam Chair?

Madam Chairman: Certainly.

Sen. Al-Rawi: Thank you, Ma'am.

AG, may I enquire about the maintenance of records for six years, which appears to be a taxation timeframe, and if it is not, and if it is more on the realm of fraud and crime?

Sen. Nicholas: Which one are you speaking about specifically?

Sen. Al-Rawi: That is clause 124(2), “A record referred to under subsection (1) shall be kept for a period of six years...” Taxation?

Sen. Nicholas: Government policy.

Sen. Al-Rawi: For taxation link, is it to keep it in sync with that?

Sen. Nicholas: It is not just that, but it includes that.

Sen. Al-Rawi: Right. So why I was asking this, if I would let you know, it is— because if it is to deal with matters of fraud, fraud, of course, has no period of limitation. So I appreciate it, I would stop there. Much obliged, Ma'am.

Madam Chairman: Hon. Senators, the question is that clause 124 be amended in subsection (2)(a)(iii), by deleting the word “and” after “number;” and in (iv), after the word “marks”, inserting a “;” and deleting the words, “whether any numbers thereon have been defaced, destroyed or changed;” and inserting a new (v) to read, “whether any numbers thereon have been defaced, destroyed or changed;”

Sen. Al-Rawi: Before you move, Madam Chair, there is one more amendment.

Madam Chairman: Yes, Senator.

Sen. Al-Rawi: Madam Chair, we have proposed in the circulated amendments by the Attorney General, reorganization of words to clause 124(1), it ought to be reflected in clause 124(3) as well, where the same anomalous version of words appears.

“A vehicle trader shall maintain a record in the prescribed form of every vehicle sold or exchanged by him or received or accepted by him...”

That appears in subclause (1), as unamended. And it also appears in subclause (3):

“A vehicle trader shall provide the record of any vehicle as required under subsection (1) that was sold or exchanged by him or received or accepted by him

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for sale or exchange...”

So insofar as we have amended (1), you would need to have a consequential amendment for (3), as well.

Sen. Nicholas: Thank you.

Sen. Al-Rawi: Perhaps the same chain of words used in the circulated amendments could be applied.

Sen. Nicholas: Yes.

Madam Chairman: So what is it going to read in (3), AG?

Sen. Nicholas: We remove the “by him”. So that:

“A vehicle trader shall provide the record of any vehicle as required under subsection (1) that was sold or exchanged or received or accepted for sale or exchanged for inspection when so requested...” et cetera.

Madam Chairman: Okay, so the question is that clause 124 be amended, as circulated, and further amended in subclause (2)—we took that already, did we not? And further amended in subclause (3), by deleting the words after “sold or exchanged by him”—

Sen. Nicholas: “or”.

Madam Chairman: “or”. “by him”.

Sen. Nicholas: Sorry. Let me reread it, please, Madam Chair.

“A vehicle trader shall provide the record of any vehicle as required under subsection (1) that was sold, exchanged, received or accepted for sale...”

Madam Chairman: Okay, and in subclause (3), by inserting after the word, “sold” the word “,” , deleting the word “or” before the word “exchanged”, inserting the word “,” after the word “exchanged”, deleting the words “by him or”, before the word “received”. And deleting the words, “by him” after the word,

“accepted”.

Question put and agreed to.

Clause 124, as amended, ordered to stand part of the Bill.

Clause 125.

Question proposed: That clause 125 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 125 be amended as follows:

Delete the words “section (2)” and substitute the words “section (1)”.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: At clause 125(4), where an application may be made to extend the time, what is the responsibility of the Authority at that stage, and do they have a discretion?

Sen. Al-Rawi: I do not know if reading clause 126 assists?

Sen. Prescott SC: Excuse me?

Sen. Al-Rawi: I do not know if reading clause 126 assists, Senior?

Sen. Prescott SC: Yes.

Sen. Al-Rawi: Insofar as clauses 125 and 126 seem to read together. I had the same question in my mind, until I started reading clause 126 and I see—

Sen. Prescott SC: A suspension will follow.

Sen. Al-Rawi: If it thinks fit, suspend. It refers to “or within any period of extension granted under section 125(4)”. So that anchors your point even more.

Sen. Prescott SC: Yes, there should be a grant.

Sen. Al-Rawi: Because the facility to grant is absent in clause 125(4).

Sen. Prescott SC: Chair, I think that the discretion to grant ought to be articulated in.

Sen. G. Singh: Madam Chair, I beg to move that progress on the Bill be reported to the Senate.

Question put and agreed to.

Madam Chairman: The Bill will now be reported to the Senate.

Senate resumed.

Madam President: The Minister of Transport.

The Minister of Transport (Hon. Stephen Cadiz): Madam President, I seek leave from the Senate to continue the committee stage at a later date.

Question put and agreed to.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. Madam President, I beg to move that this Senate do now adjourn to Wednesday, June 10, 2015, at 10.30a.m., when we will start the debate on the Variation of Appropriation Bill. Time permitting, there are two other Bills, the squatter regularisation, and also, the Waste Recycling Authority Bill. So with that in mind, Madam President, debate begins tomorrow at 10.30 a.m., so that Members can get a good rest this evening.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.15 p.m.