

**SENATE**

*Tuesday, May 21, 2019*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]



**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Paula Gopee-Scoon who is out of the country and to Sen. Sophia Chote SC who is ill.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from Her Excellency The President, Paula-Mae Weekes, ORTT:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,  
O.R.T.T., President of the Republic of Trinidad  
and Tobago and Commander-in-Chief of the  
Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MR. NDALE YOUNG

WHEREAS Senator the Honourable Paula Gopee-Scoon is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the

**UNREVISED**

power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NDALE YOUNG, to be temporarily a member of the Senate, with effect from the 21<sup>st</sup> May, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Paula Gopee-Scoon.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 21<sup>st</sup> day of May, 2019”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,  
O.R.T.T., President of the Republic of Trinidad  
and Tobago and Commander-in-Chief of the  
Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. FOLADE MUTOTA

WHEREAS Senator Sophia Chote, S.C., is incapable of performing her duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, FOLADE MUTOTA, to be temporarily a member of the Senate with effect from the 21<sup>st</sup> May, 2019 and continuing during the absence of Senator Sophia Chote, S.C., by reason of illness.

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Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 21<sup>st</sup> day of May, 2019.”

### **AFFIRMATION OF ALLEGIANCE**

*Senators Ndale Young and Folade Mutota took and subscribed the Affirmation of Allegiance as required by law.*

### **STATUTORY INSTRUMENTS COMMITTEE**

#### **(APPOINTMENT TO)**

**Madam President:** Hon. Senators, in accordance with Standing Order 79(2), I wish to make the following appointment to the Statutory Instruments Committee: Mr. Saddam Hosein in lieu of Mr. Gerald Ramdeen.

### **VISITORS**

#### **LEGISLATIVE ASSEMBLY OF ONTARIO**

#### **(DIGNITARIES OF)**

**Madam President:** Hon. Senators, as you are aware, on Monday, May 20<sup>th</sup>, 2019 the Parliament of Trinidad and Tobago engaged in the signing of the twinning agreement with the Legislative Assembly of Ontario, Canada. In this regard, we have in our presence the Hon. Ted Arnott, Member of the Provincial Parliament and Speaker of the Legislative Assembly, Ontario, Canada; Mr. Rick Nicholls, MPP, Deputy Speaker of the Legislative Assembly of Ontario, Canada; Mr. Todd Decker, Clerk of the Legislative Assembly and Ms. Tonia Grannum, Clerk of the Procedural Services. In addition, we also have as our guests, representatives of the Canadian Women's Group.

So, distinguished guests, I take this opportunity—and I am sure Members here will join with me—in welcoming you to our Parliament. [*Desk thumping*]

**ADMINISTRATION OF JUSTICE (INDICTABLE PROCEEDINGS)  
 (AMDT.) (NO. 2) BILL, 2019**

Bill to amend the Administration of Justice (Indictable Proceedings) Act, 2011 (Act No. 20 of 2011) [*The Attorney General*]; read the first time.

**PAPERS LAID**

1. Annual Audited Financial Statements of the Cocoa Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2017. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Annual Report of the National Investment Fund Holding Company Limited for the financial year ended December 31, 2018. [*Sen. The Hon. A. West*]
3. Audited Consolidated Financial Statements of Trinidad and Tobago Creative Industries Company Limited (CreativeTT) for the financial year ended September 30, 2016. [*Sen. The Hon. A. West*]
4. Annual Administrative Report of the Ministry of Tourism for the year 2016. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
5. White Paper on the Revised National Policy on Persons with Disabilities and Action Plan. [*Sen. The Hon. F. Khan*]

**1.40 p.m.**

**SPECIAL SELECT COMMITTEE REPORT**

**Sexual Offences (Amdt.) Bill, 2019**

**(Presentation)**

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, I have the honour to present the following report:

**UNREVISED**

Report of the Special Select Committee established to consider and report on the Sexual Offences (Amendment) Bill, 2019 in the Fourth Session (2018/2019), Eleventh Parliament.

### **URGENT QUESTIONS**

#### **Port of Spain General Hospital**

##### **(Smoke Emanating from)**

**Sen. Wade Mark:** Thank you. To the hon. Minister of Health: In light of reports of smoke emanating from the Physiotherapy Department, Port of Spain General Hospital which led to the evacuation of several patients from the Intensive Care Unit, can the Minister indicate what has been done to address this situation?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Thank you very much, Madam President. At approximately 2.40 p.m. on the 20<sup>th</sup> of May, 2019, which was yesterday, smoke was seen emanating from the Physiotherapy Department, Port of Spain General Hospital. The Trinidad and Tobago Fire Services were immediately called in and were on the scene. Subsequently, the smoke cleared. As a precautionary measure, Madam President, three patients from the Intensive Care Unit, which is above the Physiotherapy Department, were relocated to another area. Patients were returned to the ICU area last night once the area was cleaned and cleared for occupation by the Internal Health and Safety Department and the Trinidad and Tobago Fire Services. Madam President, we thank these patients and their families for assisting us in this exercise.

Madam President, the Physiotherapy Department remained closed today, Tuesday 21 May, 2019, to facilitate deep cleaning of the area. Outpatients who were scheduled for appointments today were contacted to reschedule. The Port of Spain General Hospital is committed to ensuring that these outpatients are

accommodated quickly.

Madam President, in closing, I say that preliminary reports indicate that the source of the smoke was within the kitchen area of the department. An internal investigation into the cause of the fire is ongoing. No one was injured as a result of this incident. We thank the staff, the Trinidad and Tobago Fire Services and the patients and the families at Port of Spain General Hospital for their support in this matter. Thank you.

### **Reports of Human Trafficking in South Trinidad**

#### **(Action Taken to Verify)**

**Sen. Wade Mark:** To the Minister of National Security: Given recent reports that several Venezuelan women are being held in South Trinidad for purposes of human trafficking, can the Minister indicate what action has been taken to verify said reports?

**The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. There are on-going multi-agency investigations taking place with the Trinidad and Tobago Police Service, the Counter Trafficking Unit and Immigration and I do not want to say anything more about these investigations that are currently taking place. Thank you.

**Madam President:** Sen. Mark.

**Sen. Mark:** But can the Minister verify to this honourable House whether Venezuelan women are being used as sex slaves in this human trafficking ring taking place in South Trinidad? Can the Minister verify that for this honourable Senate?

**Madam President:** Minister.

**Hon. S. Young:** Thank you very much, Madam President. I hope this is not—our

visitors do not take this as the norm as to what takes place here. As I said a short while ago, there is a current multi-agency investigation taking place and I will not be drawn into providing any premature information at this stage. We will await certainly on this and every responsible citizen of Trinidad and Tobago will await the outcome of these investigations and I will not prejudice them.

**Madam President:** Next question, Sen. Mark.

**Venezuelan Pirogue *Ana Maria***

**(Location and Assistance of)**

**Sen. Wade Mark:** To the Minister of National Security: In light of reports that the Venezuelan pirogue *Ana Maria* may have capsized while at sea leading to the drowning of several passengers, can the Minister indicate what action has been taken to locate this vessel and to provide assistance?

**The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. There have been conflicting reports surrounding this alleged incident. All that has been verified, at this stage, is that a person who appears to be a citizen of Venezuela was picked up by a private marine vessel on its way to Grenada. That person was then taken to Grenada by the persons on the private marine vessel. To date, there were reports that the vessel emanated from Margarita or from Güiría, two completely different areas. To date, the Trinidad and Tobago Coast Guard has found absolutely no evidence of any vessel being sunk, anybody being on such a vessel in the water or anything associated with the vessel in the water.

Trinidad and Tobago Coast Guards have performed patrols in the general area and found nothing. They have been in contact with their colleagues from the Venezuelan authorities who are also conducting patrols and at this stage, have

found nothing either. Trinidad and Tobago Coast Guards stand ready to assist in any way that they can.

### **WASA Seizure of Farmers' Water Pumps**

#### **(Measures Taken to Resolve)**

**Sen. Wade Mark:** To the Minister of Public Utilities: Given reports of the continued seizure by WASA of water pumps belonging to farmers and the negative impact this is having on agricultural output, can the Minister indicate what measures are being taken to have this situation resolved?

**The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte):** Thank you very much, Madam President. In my question, it said "have this situation amicably resolved". It is public knowledge that the Minister of Agriculture, Land and Fisheries has been working with farmers and their representatives. Additionally, WASA has been in constant contact with the farmers, their representatives and community leaders in the area. Based on these interventions within the last two weeks, we have had a number of applications that have been received for abstraction licences and these applications are being processed expeditiously.

Madam President, this process entails the examination of the proposed water courses to ensure that the water being extracted is in keeping with good sanitation and meets the qualifying criteria for basic water. WASA continues to put measures in place to ensure that potable water is available for all citizens of Trinidad and Tobago and that continued effects are being made, especially during the dry season, to ensure that the impact is minimized.

### **Education Facilities Company Limited**

#### **(Payment of Salaries and Allowances)**

**Sen. Wade Mark:** To the Minister of Education: In light of reports that the staff of EFCL has not been in receipt of their salaries and allowances since March 2019,

can the Minister indicate when will said workers be paid?

**The Minister of Education (Hon. Anthony Garcia):** Thank you very much, Madam President. The monthly commitment for the payment of salaries to the 62 employees of EFCL plus operational expenses is approximately \$1.9 million. EFCL earns income through the application of management fees that are paid for the services rendered. It is the intention of the Ministry of Education to continue the remittance of moneys to the EFCL through the mechanism upon the receipt of the necessary releases of funds. Thank you very much.

**Sen. Mark:** Can the Minister indicate when will these workers be paid their outstanding salaries?

**Hon. A. Garcia:** Madam President, at this point, I cannot give a definite date but as I said before, every effort will be made to ensure that those employees are paid as soon as possible. Thank you.

### **Couva Police Station**

#### **(Allocation of Patrol and Response Vehicles)**

**Sen. Anita Haynes:** To the Minister of National Security: In light of reports indicating that there is only one working patrol and response vehicle at the Couva Police Station, can the Minister indicate why no additional resources have been allocated to that station?

**The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. As has been announced by the Commissioner of Police, it has also been referred to on a number of occasions both in this House and the other place, there is a current system in place with the Trinidad and Tobago Police Service rapid response vehicles being utilized. These vehicles have GPS tracking and they are also being monitored in three separate locations independent of each

other.

That is the context within which to tell the persons in the Couva area and surrounding areas, there is absolutely no need to panic because right now, when emergency calls come into E-999, the dispatch of vehicles is not done from the nearest police station. What we are doing is we are monitoring where the closest ERP vehicles are or other vehicles in Trinidad and Tobago Police Service and using available technology to get those vehicles to the point of concern in the shortest possible time. So the vehicles are not being dispatched from the relative police stations.

Additionally, the Commissioner of Police and the Trinidad and Tobago Police Service have just taken possession of 49 refurbished vehicles from VMCOTT, and the Commissioner of Police and his executive are going to place one or two of those vehicles in the Couva district as a supplementation of their one vehicle that may be at this police station. The Commissioner of Police will address this publicly.

**Madam President:** Hon. Senators, the time for Urgent Questions has expired. I allowed the Minister to complete his response.

### **ANSWERS TO QUESTIONS**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. The Government is pleased to announce that it will be answering Question No. 146, Question No. 147 and Question No. 246. We ask for a deferral of Question No. 145 for two weeks.

**Madam President:** Question No. 145 is deferred for two weeks.

### **ORAL ANSWERS TO QUESTIONS**

*The following question stood on the Order Paper in the name of Sen. Wade Mark:*

**Kadeem Murray's Death**  
**(Results of Investigation)**

**145.** Could the hon. Minister of Health state:

Has the Ministry launched an investigation into the circumstances surrounding the death of Mr. Kadeem Murray at the Sangre Grande Hospital and, if yes, what are the results of said investigation?

*Question, by leave, deferred.*

**“Mind Your Business” Address**  
**(Details of)**

**146. Sen. Wade Mark** asked the hon. Prime Minister:

As regard the Prime Minister's “*Mind Your Business*” Address to the Nation on January 06 and 07, 2019, can the Prime Minister provide the following:

- (i) the name of the production company used;
- (ii) the procurement process used to select the company; and
- (iii) the total cost of production?

**The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young):** Thank you very much, Madam President. With regard to the Prime Minister's “*Mind Your Business*” Address to the Nation on January 06 and 07, 2019, the name of the production company used was—Dass Entertainment Services provided the equipment, Advance Dynamics Limited did the production and Berment Caterers provided meals. The procurement process was a sole select process and the total cost of production, which may shock those on the other side, was only \$69,062.52, [*Desk thumping*] less than what was spent on food for certain events at the Prime Minister's residence under the previous administration by far.

**Sen. Mark:** Can the hon. Minister indicate to this honourable Senate what was the

rationale for proceeding with a sole selective process—[*Crosstalk*] Select, sorry. Thank you very much. Sole select process.

**Hon. S. Young:** Efficiency. [*Desk thumping*]

**Sen. Mark:** Madam President, can the Minister provide this honourable House with a breakdown of the \$69,000 that it cost to produce this “Mind Your Business” exercise as it relates to three organizations or companies identified by the hon. Minister? Can he give us a breakdown, Madam President?

**Madam President:** Minister.

**Hon. S. Young:** Thank you very much, Madam President. Dass Entertainment Services who provided equipment charged \$19,000, Advance Dynamics who did the production charged \$36,000 and Berment Caterers who provided the food charged \$14,062.52. [*Interruption*] The roti? The roti was \$500,000.

**Sen. Haynes:** Would the Minister be able to provide us with the cost of airing the production?

**Madam President:** No, that question does not arise.

**Sen. Mark:** Can I ask the hon. Minister whether he can share with this Senate how many persons were in the audience and how this audience was selected? Can I ask this, Madam President?

**Madam President:** Well, you just asked two questions there. You asked how many and how. In respect of each of them, because I will take them separately, those questions do not arise. Okay? [*Crosstalk*] Minister. Next question, Sen. Mark.

**Sen. Mark:** I understand it was a PNM crowd.

**Sen. Baptiste-Primus:** Does not matter, it was a crowd.

**Sen. Mark:** PNM selected crowd. [*Crosstalk*] Anyway, anyway, I am directing my question to the honourable—I speak to the hon. President. Question No.1—am

I on the right one, Madam?

**Madam President:** Yeah, 147.

**Waste Water Leaks at HDC Apartments  
(Measures Taken to Rectify)**

**147. Sen. Wade Mark** asked the hon. Minister of Housing and Urban Development:

Given recent reports that since December 2018, waste water has been dripping from the upper to the lower floors of the Housing Development Corporation (HDC) Apartments at Building No. 3, Lady Hailes Avenue, San Fernando, can the Minister inform the Senate what measures are being taken to rectify this problem?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. On January 16, 2019, the Trinidad and Tobago Housing Development Corporation, the HDC, received reports of a waste water leak occurring in Building No. 3, Lady Hailes Avenue, San Fernando. In light of this, the Estate Management Division of the HDC conducted an assessment and subsequently rectified the issue on January 29, 2019.

**Sen. Mark:** Can the Minister confirm since the rectification of this matter—can the Minister indicate whether there have been any further developments in terms of leaks in this particular area of San Fernando in terms of this apartment?

**Madam President:** No. Sen. Mark, that question does not arise.

**Sen. Mark:** Okay.

**Madam President:** Any further questions?

**Sen. Mark:** No, I am fine.

**Madam President:** Next question, Sen. Obika.

**Lack of Growth of the Economy**  
**(Measures to Address)**

**246. Sen. Taharqa Obika** asked the hon. Minister of Finance:

In light of the projection by the International Monetary Fund (IMF) that in 2019 there will be 0% growth of the economy, can the Minister indicate what measures will be taken to mitigate this situation?

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Madam President. The recent projection by the IMF for 2019 was based on provisional 2018 data. It is merely a preliminary estimate which will be updated when the actual GDP data for 2018 is provided by the Central Statistical Office which we expect to get shortly. It should be noted that after that IMF projection was published in the World Economic Outlook in April 2019, the IMF confirmed in a live press conference that the Trinidad and Tobago economy started to improve in 2017 and return to positive growth in 2018.

The IMF further confirmed that it will update its April 2019 projection for our economy in June or July of 2019. It should be noted that the IMF is required to adopt final CSO data in its projections and publications, as is the case for all other countries in the world that have national statistical agencies such as our Central Statistical Office.

In contrast, the World Bank has projected real growth of plus positive 0.9 per cent for the Trinidad and Tobago economy for 2019. We expect the actual GDP growth figure for 2018 to be close to the World Bank projection, if not better. In the circumstances, there is no need to put measures in place to mitigate anything. According to all official estimates, both local and international, our economy has turned around and is on a positive growth path.

**Madam President:** Sen. Obika.

**Sen. Obika:** Thank you, Madam President. Given the hon. Minister's assertion, can the Minister indicate any reason for the dissonance between CSO statistics and the Central Bank statistics which contradicts the estimates for 2018 and 2019?

**Madam President:** Minister.

**Hon. C. Imbert:** Thank you, Madam President. In the first place, it is not an assertion on my part, it is a fact. It is a fact that the IMF at a live press conference—

**Sen. Obika:** The jury is out on that.

**Hon. C. Imbert:**—indicated that the Trinidad and Tobago economy had started to improve in 2017 and returned to growth in 2018. That is on the IMF's website. And with respect to the other statement made by the Senator, he is incorrect. The Central Bank has, in fact, projected significant growth for 2019 contrary to the inaccurate statement that he just made.

**Madam President:** Sen. Obika.

**Sen. Obika:** Thank you, Madam President. Can the hon. Minister indicate what was this significant growth the Central Bank stated which was significantly lower than the projections that CSO made because of the change from the TTSNA to the ISIC?

**Hon. C. Imbert:** Madam President, the Central Bank, in its latest publication, has used the CSO figure of growth for 2019 and 2018. I have no idea what the Senator is talking about.

**Madam President:** Sen. Obika.

**Sen. Obika:** Thanks, Madam President. I thank the hon. Minister for putting no statistics on the record in his response and I want to say that Central Bank in their—

**Hon. C. Imbert:** Is that a question?

**Madam President:** Senator, Senator—

**Sen. Obika:**—report has disagreed with CSO's formulation.

**Madam President:** Sen. Obika, please.

**Sen. Obika:** So I want to put that on the record.

**Madam President:** Sen. Obika, you need to ask a supplemental question and you need to ask for leave to pose the question. It is not the time now to be making statements. Okay? Do you have any other questions to pose to the Minister? You do?

**Sen. Obika:** Yes, Madam.

**Madam President:** One last question.

**Sen. Obika:** Thank you very much, Madam President. Then can the hon. Minister indicate when will Central Bank be changing from the TTSNA to the ISIC standard that the CSO now uses?

**Madam President:** Sen. Obika, that question does not arise.

### **WRITTEN ANSWER TO QUESTION**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I crave your indulgence to inform the Senate that we have also tabled answers to written question No. 245.

#### **Ministry of Finance**

#### **(Total Funds not yet Released)**

**245. Sen. Taharqa Obika** asked the hon. Minister of Finance:

Can the Minister provide the total funds not yet released to each Ministry as at March 31, 2019?

*Vide end of sitting for written answer.*

### **FIREARMS (AMDT.) BILL, 2019**

Bill to amend the Firearms Act, Chap. 16:01 [*The Attorney General*]; read the first time.

## JOINT SELECT COMMITTEES

### (Change in Membership)

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, I beg to move the following motion:

*Be it resolved* that this Senate agree to the following appointments:

Mr. Saddam Hosein in lieu of Mr. Gerald Ramdeen on the Joint Select Committee on National Security;

Ms. Anita Haynes in lieu of Mr. Gerald Ramdeen on the Joint Select Committee on Energy and Energy Affairs; and

Mr. Ashvani Mahabir in lieu of Mr. Saddam Hosein on the Joint Select Committee on Human Rights, Equality and Diversity.

*Question put and agreed to.*

### LICENSING COMMITTEE (VALIDATION) BILL, 2018

[Second Day]

*Order read for resuming adjourned debate on question* [May 07, 2019]:

That the Bill be now read a second time.

*Question again proposed.*

**Madam President:** Those who previously spoke on this matter were the Attorney General who moved the Motion, Sen. Wade Mark and Sen. Anthony Vieira was making his contribution. Sen. Vieira, you now have 29 minutes of speaking time remaining. [*Desk thumping*]

**Sen. A. Vieira:** Thank you, Madam President. Let me start off by saying that I recognize that the problems and mischief sought to be cured by this legislation are not the fault of the hon. Attorney General. He is trying to sort out a situation which is not of his making.

This legislation is about regularizing improperly constituted licensing

committees and the work done by them since 2014 when the Liquor Licences Act was last amended. We are being asked to validate and give immunity to licensing committees for acts, decisions, omissions and proceedings, not just for liquor licences but also in relation to cinemas, clubs, pawnbrokers, moneylenders, precious metal dealers and so on. So the Bill, Madam President, allows us to put a spotlight on the role of licensing committees, their manner of operation and where they may be failing.

Now, one of the key reasons for issuing licences in the first place is public recordkeeping. Licensing committees are meant to maintain up-to-date registers that the public can access and rely on. But trying to get accurate and timely information about licensed cinema owners, for example, has proven in the past to be frustrating and uncertain. It took months before the data was actually received and provided. So it appears that some work needs to be done in that regard. It should not be difficult to get basic information. All right. Citizens and members of the public should be able to get data and page extracts from licensing registries without having to write to high office and give explanations.

Now in piloting the Bill, the hon. Attorney General made clear that a validation Act is not a usual piece of law. He confirmed that this is unusual legislation in that it seeks to authorize something which happened which ought not to have happened. The Attorney General always recognized that while he considered validation to be the correct approach, it was not the only approach. There may be other ways in order to resolve the situation. So in this regard, I have a number of questions. So, for example, why go the route of a validation law. It has not been explained what would happen in the absence of this legislation nor have other options or approaches been considered. If there is no blueprint on how

to fix the situation described by the hon. Attorney General, then why assume that this is the best or the only viable approach? We understand what this Bill seeks to achieve but are there any disadvantages or possible downsides to it?

There can only be one reason for looking to bring this legislation. Certain people feel exposed and they want to be insulated. The question is: Why do they feel exposed? From whom? And should they be insulated? Persons who were properly and duly licensed can have no cause for complaint. They would hardly look to seek redress because no harm has been suffered. Exposure will only arise if things were not done as they should have been done and there is a fear of legal reprisal. Only a person who feels wronged would feel the need to seek legal redress. But this legislation, if it passes as cast, will deny them that right because clause 7 effectively pre-empts them from having their day in court.

Sen. Mark raised the issue about separation of powers and it is not an unreasonable question. It is not unreasonable to wonder if clause 7 runs the risk of running afoul of that very important principle. Again, no information was provided about the number of licensing committees or whether the risks involved or so considerable as to justify bringing this unusual piece of legislation. Were all licensing committees across Trinidad and Tobago improperly constituted or just some? We do not know. Did all licensing—*[Interruption]*

**Hon. Al-Rawi:** I thank the hon. Senator for giving way. May I just quickly, because your contribution is so powerful in this Senate that it will echo in the minds of those yet to speak, by first referring you to the latter part of clause 7 which specifically says that there is a caveat to the indemnity provided that it would have been lawful and valid had the Act not come into effect.

**2.10 p.m.**

So we do not seek to cover anything that is illegal, ultra vires or invalid the law, had it not been repealed, by way of the proclamation.

And secondly, I beg your pardon, you are perfectly correct, the statistics are lacking but they are axiomatically associated from the parent law to be 14 licensing committees for the 14 magisterial districts. And I did provide the thousands of figures for the liquor licensing, which are the larger numbers. I will undertake to get the figures for pawnbrokers and other aspects. But, for the record, we do not seek to oust the jurisdiction for matters for the average citizen. And the law is clear on that.

**Sen. A. Vieira:** Thank you, hon. Attorney General. Well, I do not know if I am reading clauses 7 and 8 correctly, but I hear you and I thank you for what you have pointed out. Again, I am not too sure whether all the licensing committees across Trinidad and Tobago operated in the same way; whether some may have acted properly, while others may have acted improperly. But we do not know. And again, we do not know what happens if this legislation fails to pass.

I mean, licences are usually granted in an annual basis. So, to my thinking, most, if not all of the licences granted have been acted upon and many of them probably have expired by now. So what is the anticipated harm? We have not been provided with an explanation about likely fallout, or the potential negative consequences on citizens or society.

Now, during his presentation I asked the Hon. Attorney General about the doctrine *omnia praesumuntur*. And, to his credit, he was able to recite the doctrine in its full Latin glory, for the record. In English the maxim means that all acts are presumed to have been done rightly and regularly. And since ancient times, the law recognizes and has given effect to everything which appears to have been

established for a period of time and to presume that what was done was done correctly and not wrongly, that where acts are of an official nature, a presumption arises in favour of their due execution.

But there are limits to the doctrine and the maxim does not appear to apply to inferior tribunals and proceedings by magistrates. If I may quote from a selection of legal maxims, the 10<sup>th</sup> edition by Herbert Broom on the doctrine *omnia praesumuntur rite et solemniter esse acta*, where he says at page 646:

“It is, however, important to observe, in addition to the above general remark, that, in inferior courts and proceedings by magistrates, the maxim, *omnia praesumuntur rite esse acta*, does not apply to give jurisdiction.”

And at page 647:

“The rule, therefore, may be stated to be, that where it appears upon the face of the proceedings that the inferior court has jurisdiction, it will be intended that the proceedings are regular; but that, unless it so appears—that is, if it appear affirmatively that the inferior court has no jurisdiction, or, if it be left in doubt, whether it has jurisdiction or not—no such intendment will be made.

‘...nothing is intended to be within the jurisdiction of an inferior court but that which is expressly alleged’. And again, ‘in all proceedings in inferior courts it is necessary to show that the proceedings were within the jurisdiction of the Court’.”

So, I accept that to the extent this Bill seeks to regularize the jurisdiction of improperly constituted licensing committees during the period in question, there is a legitimate legislative purpose; I accept.

To my thinking, if amendments could be made to clause 7, I may be willing

to support the validation aspects. But I really do find clause 7 unpalatable, in that it seeks to give absolute immunity from suit.

Now, on the matter of immunity, Madam President, the record will show that I supported immunity for magistrates in the Magistrates Protection (Amdt.) Bill. I stated then, and I still hold, that no one in public office, especially when such a person is acting in a judicial or quasi-judicial capacity, should have personal liability when acting in good faith or of an innocent error of fact or law. But to my mind, the immunities granted in clause 7, the immunities granted in the Magistrates Protection (Amdt.) Bill were not absolute. They were qualified. Where a magistrate acts maliciously and without reasonable and probable cause, an action can be brought. But clause 7, to my mind, goes way beyond that, in that it offers absolute immunity covering any act, decision, omission or proceeding within the specified period. And it is because of clause 7 that the three-fifths majority is required.

Now, if you compare clause 7 and the Magistrates Protection (Amdt.) Bill with, for example, the immunities that are offered to the securities industry, section 13:

“No action or other proceeding”—for damages—“shall be instituted against a Commissioner or an employee or agent of the Commission for an act done in good faith in the performance of a duty or in the exercise of a...power...under this Act.”

Under the public authority’s protection, under data protection

“Proceedings shall not lie against the Commissioner or a person acting for or under the direction of the Commissioner for anything done, reported or said in good faith in the exercise of performance or the intended exercise

or performance of a duty, power or function under this Part.”

Or in the Environmental Management Act at section 12. All of these immunities are qualified. So why should licensing committees be given a blanket immunity? AG.

**Hon. Al-Rawi:** So that I can get the drafting started, would you please tell me—and again, I thank you for giving way—what you consider the import and meaning of:

“...if such act, decision, omission, or proceeding would have been lawful and

valid had the Act not come into force.”

—the latter part of clause 7? What is the mischief that you see those qualifying words causing? Or is there a failure to address something further than that exception? Because for the record, that exception is intended to put the law in effect as if it had not been proclaimed until now.

**Sen. A. Vieira:** Hon. Attorney General, I hear you. And usually when I read legislation, it makes sense to me. But this one, as the Jamaicans say, gave me “ning ning”. It befuddled me. It is not clear to me and I would really like to see something that is to the point and clear. Because, where I have problems with this clause 7, and giving what appears to be a blanket immunity, is just not on that, but it has to do with some fundamental principles; the principles dealing with retrospectivity, the principle of separation of powers. Right? The idea of ousting courts; that is how I interpret the clause 7, on retrospectivity. And I think it is important to flag this, because as you have already indicated, this is unusual legislation. Generally, amendments are not intended and they are not presumed to have a retrospective operation. Retrospective laws are generally regarded as

inappropriate. In fact, in some jurisdictions, ex post facto law is prohibited. If I may quote from *Bennion on Statutory Interpretation*, Sixth Edition by Oliver Jones, at pages 291, 293, the:

“...(law looks forward not back)...retrospective legislation is ‘contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transaction carried on upon the faith of the then existing law.’ The basis of the principle against retrospectivity ‘is no more than simple fairness, which ought to be the basis of every single legal rule’.”

Lower down they say:

“Retrospectivity is artificial, deeming a thing to be what it was not. Artificiality and make-believe are generally repugnant to law as the servant of human welfare.”

And yet, lower down:

“It is important to grasp the true nature of objectionable retrospectivity, which is that the legal effect of an act or omission is retroactively altered by a later change in the law....Changes relating to the past are objectionable only if they alter the legal nature of a past act or omission in itself.”

Acts relating to procedure or evidence can be retrospective. No problem with that. But to my mind the immunity offered under clause 7 takes away the constitutional rights of citizens to protection of the law and the right to a fair hearing in accordance with the principles of justice for the determination of their rights and obligations.

Clause 7 goes against the grain of the presumption against retrospective operation,

and I think it is fundamentally unfair to citizens who may think they have been wronged. Are there sins of error or omission since 2014, that licensing committees should be concerned or worried about? I do not know. But if there are, it should be for the courts to deal with. I do not see why licensing committees should be treated differently or afforded greater privileges than what is provided to the securities commission, the Environmental Management Authority, the data commissions and the Magistracy. I thank you. [*Desk thumping*]

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, I thank you very much for the opportunity to join this debate. Madam President, with the greatest of respect for my colleague Sen. Vieira, in over two sittings I have tried to grapple with the problem that he faces and I must admit I cannot discern where the problem lies. I think this is more about what we know than what we do not know.

So perhaps, Madam President, I would share my own thoughts on the legislation and perhaps I would persuade Sen. Vieira and others that this is something that not only needs to be done but it is not so abnormal for it to be done.

The first thing I want to say, Madam President, is that Parliament has some specific functions, some of which we exercise more often than other times. So, Parliament has a lawmaking function, and I think we understand that. But that lawmaking function—and I have heard a lot about the separation of powers—fits into the separation of powers. Parliament has an oversight function and we do that here in the Chamber and we do that through our robust system of select, joint select and special parliamentary committees.

[MR. VICE-PRESIDENT *in the Chair*]

But, Mr. Vice-President, Parliament also has a curative function and that is

the ability to supervise its own legislation and take corrective action; as rare as it might be, but it is a function of the Legislature. And what we are called upon to do in this Bill is for Parliament to exercise a curative function. And it is not—I listened to Sen. Vieira, it is not unusual. And I will very quickly cite a few examples across four jurisdictions of how Parliaments, sometimes in far more extreme circumstances than we have been asked, have exercised this function of curing a problem. I will say three things in relation to the curative problem before I give the examples. One is that I think that the curative function operates on a low to high end. A low end meaning minor matters, matters for which corrective action needs to be taken. And on the high end, perhaps, lies a section 34 situation, which was Parliament, which was the Parliament exercising its curative function.

The second element of this curative power I think is discerning between illegality and ultra vires. And I could understand a challenge as a legislator having to deal with an illegality, but I do not believe that an ultra vires situation is as difficult to grapple with. And where a public body exercising a public function within a statutory framework, exercises power it does not have, clearly does not have, then the opportunity rests either with the Judiciary or in some cases, with the Parliament to exercise the curative function.

And then the third point in relation to the curative function is the fact that, by and large it would be retrospective because we are looking to cure a problem that previously existed. And while it may be rare and while it may be exercised with the greatest degree of concern, it is not unusual. In fact, the inherent nature of having to cure a problem is that it is retrospective in its functions.

And let us start with this country. In 2011, a simple problem. There was a Census (2011) Order which was published for the purpose of conducting a census

in this country and the census was meant to commence on a certain date and finish on a certain date, and it did not finish within the time that was prescribed. And so, after it finished eventually, after it finished—and Sen. Mark is leaving but I am sure he will take note.

**Sen. Mark:** I am right here.

**Sen. The Hon. C. Rambharat:** Okay, because you seem to be a stranger to this type of legislation.

**Sen. Mark:** Remember, I was in the Chair.

**Sen. The Hon. C. Rambharat:** You should, and I know your memory is excellent. So let me take you back to April 15, 2011, and the Bill that was before the Parliament on that day was a Bill to provide for the extension and validation of the census taken pursuant to the Census (2011) Order, 2010, and matters related thereto. And all this piece of legislation, all this Bill intended to do was to delete the words: “20 February, 2011”, and substitute the words: “31 May, 2011”.

Because the census which started on the 9<sup>th</sup> of January 2011, which was in the Order, the census was meant to start on the 9<sup>th</sup> of January, 2011, and it did, but it did not finish on the 20<sup>th</sup> of February, 2011. And this Bill was brought for the simple purpose of extending the date for the completion to 31 May, 2011. And it was brought, it was read on April 15, 2011. On that day, a census was being conducted from 20 February, 2011, to April 2011, without cover of the Order. And it had both retrospective application for the period not covered by the Order and future application for the remaining period May 31, 2011. And if you read this simple Bill, the language is the same as what we have before us, seeking to validate what has gone and seeking to do what remained to be done.

And, of course, Mr. Vice-President, the most famous is the Saturday

morning we assembled in this Chamber: a Bill to validate the date for the taking of the poll in the election of Assemblymen to the THA and for related matters.

**Sen. Mark:** That is when you could not count.

**Sen. The Hon. C. Rambharat:** Because, whatever the circumstances, Sen. Mark, it was neither your nor my making. In the same manner, what befuddles the licensing committees is neither your nor my making. And Mr. Vice-President, the President specified the 3<sup>rd</sup> of January, 2017, as the nomination day for the THA election and the 23<sup>rd</sup> of January, 2017, as the day upon which the poll should be taken, and election writ provided for the poll to be taken within 21 days after the nomination specified in the writ, except that the counting was wrong. And since we could not change the election date, the documents required, as it works in election, you work backwards. So certain things had to be done before the election date, which was fixed. And the Parliament, we all came, and if you look at the language in that Act, you would see similar language to what is before us. We had to agree as a Parliament, using our curative power and given the circumstances, we had to agree that those Acts which were done and clearly done outside the requirements of the law, were validated by us. And that is how we exercise an oversight sometime, an oversight function in dealing with oversights too. We exercise our lawmaking and we exercise a curative function.

In New Zealand—the Minister of Works and Transport was here, I hope he does not give us one of these—reported at [www.stuff.co.newzealand](http://www.stuff.co.newzealand), the headline:

“Parliament fixes speed limit mistake  
July 21, 2015.”

And the opening line of the article is:

“Parliament has rammed through law changes in just hours to validate tens

of thousands of potentially illegal speeding tickets.”

And what they found in New Zealand, that in about 25 local government areas they had not changed their speed limits and while the law, and while the tickets were in respect of exceeding a certain mileage, they found, in many councils, that speed was still within the speed limit that had existed for a long time. And Sen. Vieira, you would surely not have voted in favour of this. Because the report says that—  
[*Interruption*]

**Sen. Vieira:** Senator, just for the record, I have absolutely no problem with the validation aspects. Clauses 4, 5 and 6 are fine. Where I draw the line is the immunity.

**Sen. The Hon. C. Rambharat:** Right, I would get to 7. To get there I have to go through 4, 5 and 6. And you would not have been happy, Sen. Vieira, when the Minister piloting the Bill, Transport Minister Simon Bridges—how ironic—said he did not know how many drivers infringed the law. He did not know how many tickets were issued. In fact he said it is a moot point. In other words, we have to fix it. Because this problem existed for 11 years. And to go back and to determine who did what and what was the speed limit. And it was fully supported, on all sides and by all Members of the Parliament, recognizing that the Parliament had that curative power and curative powers are normally exercised retrospectively.

Australia, the Migration (Validation of Port Appointment) Bill 2018, made in respect, and it is called:

“A Bill for an Act to validate a notice made under subsection 5(5) of the Migration Act 1958, and for related purposes.”

And again in Australia, after 60 years, they found that a place that had been treated in law and recognized in law as a port had never been designated a port, based on

the 1958 legislation. And 60 years later in 2018, the Parliament cured that by passing a validation legislation in order to validate what was done.

And I give you one more, Canada, the Condominium Ordinance Validation Act:

“An Act to validate certain ordinances of the Yukon Territory and the Northwest Territories.”

Again, retrospective, dealing with a situation that started in 1971. This is 1985 legislation, and I think I make that point.

So, what we are here to do is not unusual. It is not unusual even for our Parliament, and it is something that legislators are required to do sometimes. Let me go to Sen. Vieira's points, and three points in particular. And one is the presumption, and I think you raised the issue of the presumption, Sen. Vieira, but then you yourself resile from the argument in relation to what are considered to be inferior tribunals. But I will say this in relation to the presumption. The presumption just simply did not exist in this case. And it does not exist because Parliament did in fact do something. A 2014 Bill was passed in both Houses and was assented to. So there is no presumption or no need for a presumption that what was done was validly done. This Bill is here, because what was done was inconsistent with the 2014 amendment. So the reason why we have not dealt with this question of presumption, or we are not discussing presumption is because we have accepted that a presumption is ousted by the fact that a piece of legislation was passed in 2014, clearly changing the Constitution of the committees under section 5 of the parent Act. But the reconstituted committees were never appointed, which means that the committees in the form which existed prior to 2014, continued to function and should not have continued to function. So there is

no presumption that what those committees did—from 2014 to now, because they continued—is valid. We accept that the committees themselves are not validly constituted in accordance with the 2014 amendment.

The blanket immunity, you have asked about that, and I think my colleague has answered you. But we have to be very clear. This Bill seeks to do four things, in terms of validation. It seeks to validate the constitution of the licensing committee, because that is the problem. In 2014, prior to 2014, the committees were constituted by three members, the magistrate, the magistrate being a member. The committee was constituted with three persons. Thereafter it was changed, and the critical change is that the magistrate was no longer a member of the licensing committee but replaced by the Clerk of the Peace. And the other two persons would have been a member appointed by the Minister, that is prior to 2014, and someone designated as an authorized officer to sit on the committee.

The second objective is to validate the grants. Again, recognizing, and this does not deal with grants which were improperly granted. This would not mean grants where there are disputes or where you disagree with the factual situation. This does not deal with that. We are not attempting to go back into the decision-making and place truths where there were untruths or anything like that. What we are doing is that having accepted that the constitution of the committee was inconsistent with what the 2014 amendment required of us, we have to validate those acts.

And the third thing is to validate all the other acts, because the work of the committee is not just in relation to the grant, transfer and renewals of licences. The committee, in getting to that point, will also be working. The committee will conduct site visits. The committee will do several things in preparation for a final

decision.

And the third area of validation is to do those things which were preparatory towards the decision-making. So that it makes 5, 6, 7, it makes every clause important. It makes 4 important, because what each of them say: 4, 5, 6 and 7, is that we are trying to put, we are trying to deal with this as though the 2014 amendment did not exist. And that is the point the Attorney General has made and he has made in the intervention.

**2.40 p.m.**

**Sen. S. Hosein:** Thank you very much, Minister. Now, I understand what the intention of the Bill is. There is one point—I do not know if you can address it—is that you looked at some validation Bills, for example, the THA one that dealt with the date. But in this instance, it is a bit unique in terms of, we are validating the decisions made by a quasi-judicial body. Now, my issue is whether or not Parliament is competent enough to validate a judicial Act?

**Sen. The Hon. C. Rambharat:** And that is where we differ. This is not—this is an amendment which gave a structure to a committee, so a composition. The committee, when it functions, it is functioning in its quasi-judicial form. And prior to the amendment, the committee was performing quasi-judicial functions and this Bill does not interfere with that. In fact, the Bill recognizes and asks that we treat them as though the 2014 had not come into effect.

**Sen. Vieira:** I am just wondering. If we were to delete clause 7, what is the harm to the Act? Would you not achieve the same objectives?

**Sen. The Hon. C. Rambharat:** Sen. Vieira, you seem happy with 4, 5 and 6. And 4, 5 and 6 derive from the same principle as 7. Once we accept that—as my colleague Saddam Hosein has pointed out, these committees exercise in the form—

the 1956 amendment to the Liquor Licences Act, which dealt with the constitution of the committee, recognizes that they function as a quasi-judicial body.

This Act recognizes or asks the legislators to recognize that they continued and continue now—until this is assented to—they continue to function in that manner. It asks that we ignore the 2014 amendment and everything flows from that until you get and you deal with clause 4, which deems what they have done as being proper because we are saying that they are properly constituted.

Clause 5 deals with acts and omission and so on, each ending with the expression; “would have been lawful and valid had the Act not come into force”. In other words, they continue to function notwithstanding the 2014 amendment, I think we all agree on that.

Clause 6, again, deeming it to be lawful as though the Act had not come into force, I think we agree on that. And then clause 7, we get to the point, notwithstanding any law, all these things take place, not if they were acting ultra vires, or illegal, or anything like that. Only, if what they did would have been lawful and valid under the pre-2014 legislation.

So, what we are asking here, in other words, if somebody feels, is upset or feels disenfranchised, or put out by a decision of the licensing committee they have the same remedies that they would have had before. And this does not seek to authorize things which were invalidly done. It is very clear and that is why I say we take the same language from 4, 5 and 6: “would have been lawful and valid had the Act not come into force”. In other words, we recognize and we are asking for consistency, for continuity, but only on the basis that those things which were done would have been lawful under the pre-2014 constitution of the committee which existed from 1956 to 2014.

The third issue, raised by Sen. Vieira, is the issue of ousting of the courts. And my response to that is, and I think earlier I referenced separation of powers and from Sen. Mark's separation of powers. This is the separation of powers at work. And those persons who felt aggrieved, or feel aggrieved by something done by the licensing committee, or a member of the public who believes that the constitution, that they may have been better off with a 2014 constituted committee as opposed to pre-2014, they have the same recourse to the courts.

But we are here not because we do not have recourse to the court, because we recognize we have as a Parliament we have a curative function. We can cure defects, we can pass legislation that has retrospective application, given certain scenarios. So by coming here, through the Legislature, we as legislators are doing what we can do, while members of the public who do not, on their own, who are not able to pass law on their own, have another avenue and that is what we have the separation of powers for. And when we go back, I just want to make this point that the irony of all of this, when you go back to 2014, and as you know the court is very clear that as far as possible the Judiciary wishes to give effect to the will of the Legislature. And the Judiciary, and the Court of Appeal decision on section 34, has a big section dealing with that issue. The Judiciary does not wish to go into *Hansard* and affidavits of Parliamentarians and go into that level of search in order to determine the will of the Legislature. The Judiciary wishes to look at the legislation on its face and determine what is the will of the Legislature

And when you go to the piloting of this 2014 Bill by Prakash Ramadhar, Minister of Legal Affairs, as he then was, he says in the opening, he makes it clear that this was meant to make things easy for the people. And the irony is that we may not have done so yet, but we may still do so with the passage of this validation

Bill. He says in the opening, “Mr. President, it is a truism that justice delayed is justice denied”.

So in piloting the Bill for the change to the constitution of the committees among other things, Mr. Ramadhar was saying, by having a magistrate chair the committee you are creating problems because you have backlogs, you have demands on the judicial time of the magistrates, you have scenarios in which the magistrate is sitting and unable to sit on the licensing committees, you have backlogs—and a very short presentation in piloting the Bill, but it was focused on making things easier for members of the public who wish to access the licensing committees. And the irony is that with all the good intentions of the parliamentarians, and this 2014 amendment was passed by 35 votes in the House. And with all the good intentions, it has not gone into effect in the manner in which the Legislature contemplated at the time and we cannot put it into effect, or we do not wish to put it into effect unless we deal with the period that has gone before.

And that is what the Judiciary, in the separation of powers, the Judiciary has said to us, manage your own affairs, produce your legislation, give effect to your legislation and when we have to, from the time we are called upon to supervise, or to deal with the legislation, we will exercise our judicial function. But by Parliament exercising its own ability to have oversight of its legislation, to use its curative powers to cure defects in the legislation, the Parliament is doing what it is entitled to do.

And I commend to you, Members, this validation. I commend to you the Bill because it will remove any possibility of doubt in relation to decisions that have been properly made under the pre-2014 legislation. It will not protect anybody who could not be protected prior to 2014. It will create certainty in terms of what

has been done before and it will finally give us the opportunity to move forward in the way the crafters of the 2014 amendment intended it to be. I thank you very much. [*Desk thumping*]

**Sen. Anita Haynes:** Thank you, Mr. Vice-President. I rise to contribute to this debate today and I would like to start with a statement that the Attorney General made when bringing this legislation before us, and Sen. Vieira alluded to it. But it is—I am starting there because it will contextualize my contribution here today. And the Attorney General said on May 7<sup>th</sup> that the validation Act is not a usual piece of law, despite the Minister of Agriculture, Land and Fisheries trying to give us certain assurances. And I will address the contribution because—of the Minister of Agriculture, Land and Fisheries, who I think sought to answer some of the concerns I had, but I still remain somewhat unconvinced. And I will explain why.

That “Parliament is invited to consider authorizing something which happened which ought not to have happened”. These are the words of the Attorney General. And what are we being asked to authorize? We are being asked to authorize that the operation of the Liquor Licences Act and what was effectively repealed law. So I would not go through the entire quotation, because it gets a little wordy. But what the Attorney General was telling us is that he is coming to Parliament with this validation Act and something occurred which ought not to have occurred and you are asking all of us as a Parliament to say not only that we are okay with it, but that we validate, that we are saying that everything that happened is okay.

And the Minister of Agriculture, Land and Fisheries gave us a number of examples, and the Minister started by talking about the functions of Parliament and I started my contribution there as well. But the Minister left out one very

important function of Parliament which is its representative function. We represent people, Parliament represents people. And therefore when we, whatever we are seeking to do, anything that we are seeking to do, we must contextualize that as part of seeking the interest of the people that we ought to be representing.

So I—the Minister gave us a number of examples where Parliament exercised its curative functions, so fixing a problem. And I noted the examples that the Minister gave from the Trinidad and Tobago Parliament which was the census and the THA. And my question was, and I wrote it down here, but these examples, who would have been—who would be negatively, is there a possibility that anyone would have been negatively affected by what the Parliament did in that case? And the answer is, no.

So, if the Minister, you know, I think the Minister would admit that those examples are not, they are not exactly the same. There are different from what we are doing here today. [*Desk thumping*] Because there is a possibility that people would be affected by what we are doing here today, when we, you know, if we are looking to say, yes, something which ought not to have happened—words of the Attorney General—happened—are we willing as a Parliament to say that we will exercise our power, our legislative power to correct a wrong? And that is where I have a little difficulty.

So I am going to go through my thought process here because I want to start off by saying my contribution here is really from as a student of political science, where the question on the right role of Parliament and what we are supposed to be doing in the interest of citizens, that is what has troubled me as I went through this Bill to validate the constitution of the licensing committee. Because we, I think, as a Parliament, are faced with a profound question of how—the areas we are willing

to exercise our power, bearing in mind that our power is granted to us by the citizens of Trinidad and Tobago and so we must do everything with the citizens in mind.

And I went to an article on the role of Parliament and parliamentarians in the promotion of rights of citizens and this is where I wanted to start, that legislators represent the masses, we shape laws and we exercise a degree of oversight and control over the Executive and we hence can function or perform as best as governing partners and contribute to overall good government, and by increasing our capacity to monitor and respond to the public's needs.

And so, while we can all accept that what is presented to us is a problem that occurred that needed to be fixed, where I find difficulty is what is essentially being asked of the Parliament is to give everybody a “bligh”—look, all of us we made a mistake, now take all of our collective power and make our mistake go away. And is that—we made an omission, we did not do something that we were supposed to do and now we take all of our power and make it disappear. Is that the way—even if you say, yes. Parliament can do it, and I am not arguing that, whether you say, yes or no, where you fall. The question I think we all need to ask ourselves as individuals, as Parliamentarians, is whether or not we ought to do that as a Parliament, whether or not that is the right thing to be doing.

And I think when Sen. Vieira spoke and asked: Well, what were our other options?—that also resonated with me. Because there must be that there are other options that can be exercised that would also take into consideration the people who may be affected by our decision making here today. And I would have been more comforted if when presenting the Bill, do not tell me this is our only option, it is the only way to go, because I think that as a responsible State, we can find

ways to say, this is something that we ought to have done; it did not happen. This is how we intend to correct it, these are the numbers of people that may be affected and this is their recourse. So that you kind of itemize, you go through the details of what is going to happen beyond the passage of the legislation.

The Minister of Agriculture, Land and Fisheries went through pains, I think, to point out, rightfully so, that all of this is contextualized by saying that it would have been lawful and valid had the Act not come into force. Okay. But even given that, when you talk about Parliament having a corrective function, I am always very, very, very wary of any kind of slippery slope that you get yourself on, right? So, maybe this is in some people's mind a very simple thing, one little thing, right, a licensing committee, "we good".

But then, where do we measure how far we are willing to go as a Parliament in terms of passing things that are, you know, retroactive, passing laws to fix problems? How far are we willing to go? And that is where my difficulty lay with a very seemingly simple Bill before us, because what you are asking of us is really not that simple. It is to say that we will, again, consolidate our power, use our power to in effect—and that is why it is a three-fifths majority—to disenfranchise some citizens, to say, okay, well you now, will no longer be able to access certain rights that you previously would have been able to. And I have a little difficulty with that.

And I accept that there is collective responsibility here and that the problem has been a long time in the making. But even in accepting that, so while we are there, is it that we are willing to take any old fix, anything that you put before us, we should do it, we should all get together and say, yes? Because the problem has been ongoing—or should we use, or put our collective minds together and come up

with a more creative solution that will not negatively affect persons?

And that being said, Mr. Vice-President, I also thought about, like the Attorney General gave us the number of persons who received the liquor licence; that was the statistic given. But then I started to wonder about how many people applied under the several pieces of legislation that we are amending. There must be a number of persons that applied for licences, because my thinking is, the persons who would be most aggrieved are those who were denied. And therefore, giving us the number of persons who received the licence really does not help us, because we do not have any sense of who are the aggrieved—the number of persons who may have taken issue with what happened and I would like to know that number. So if that number could be presented at some point, I think it would be helpful, because it would give us a sense of the people who would have been affected. And I say that because, like I started, we do have a representative function and we ought to always be thinking of the people, no matter what pieces of legislation we pass.

And the Attorney General, and the Minister of Agriculture, Land and Fisheries acknowledged that when this law was passed in 2014 it was to ease our burden, it was to create an administrative function that would make persons in this process have an easier time of applying for licence. And as I was preparing for this debate, I reached out to people to kind of find out what was happening now. And a big part of this, with the parent legislation was that if you are applying for a licence and there is no objection then you did not have to go in. So that that way you would ease the number of persons going into the application process. And my understanding is when they published the notices that that was not clear. So, therefore, while the Legislature may have tried to fix a problem, it still did not—the manner in which it is being implemented is not actually helping anyone at all.

And so while we are coming here to say, look, validate this thing and give us a clean slate to work with, we still are not even benefiting the people by fixing the actual problem. I spoke to some attorneys who told me that the mischief that this Act was passed to eliminate still exists to a large extent today. And again there was—I mean my problem continued, because on one hand we are asking for, you know, a clean slate for us and we are not helping the people who you were meant to be helping in the first place, still, even with the Act, even once properly in place. Because, my understanding is that people are still lining up for hours in the heat in the elements, that you are still waiting; the process seems to still be lengthy simply because the notices are not published the way they are supposed to be.

And if the system is failing people, and on top of failing people you are still willing to say, when we make mistakes, at the highest level of the system that we are the ones that ought to be granted favours. We are the ones that if we have an omission, or there was something that we left out we will use our power and fix that for ourselves and that is why citizens, I think that leaves a very bad taste in the mouths of citizens, a very bad—[*Desk thumping*]—because, you know, I have no problem with the idea that, okay, there is a curative function of Parliament and that if we exercise it cautiously and, you know, with great diligence that we can do that. But then I have a problem by saying that we are not fixing the system, we have not fixed the system, citizens continue to suffer but we come here to sort out our business and sort out ourselves, and I am uncomfortable, Mr. Vice-President, with that.

I am also of the understanding that while the Attorney General spoke of a number of improvements to the system, improvements to the justice system, that persons have not been feeling those improvements, that we may be passing a lot of

things, but have any of the benefits redounded to the citizens as yet? Not so much. And therefore, what are we really doing? Is it that we are passing laws, not implementing them properly, and then no one benefits and we check, you know, we check off achievement listing. So you come here and say okay, we pass this, we pass that, we pass the next one and then what? And that is where Sen. Mark, I think brought up a very important point in his debate which is, what do we do post passing legislation? What is our governance function post passing legislation?

And, Mr. Vice-President, you know I went back to again thinking about what Parliament represents and what we ought to be doing. And as public representatives, this is quoted from the Commonwealth Parliamentary Affairs, their website, talking about as representative—parliamentarians are first and foremost a representative institution. So before we get to where Minister Rambharat was, we have to think about people and as an efficient Parliament if we do not relate to constituents, even though we are in the Senate we do represent people, you know. If we do not relate to the people then we cannot consider ourselves an effective Legislature.

And that is where I think contextualized my debate in saying, how many people would be affected, should we say yes to this validation, the numbers and in what way? And if I can some kind of context in terms of who would be aggrieved by this and then if the numbers are low or if the Attorney General can alleviate our fears that citizens would not be left out in the dust, maybe we would be a little bit more comforted when thinking about this legislation. And I thank you. [*Desk thumping*]

**Sen. Dr. Varma Deyalsingh:** Thank you , Mr. Vice-President, for allowing me to contribute to a Bill “to validate the constitution of licensing committees established

under section 5 of the Liquor Licences Act, Chap. 84:10 as well as the grant, transfer and renewal of licences and all other acts and omissions by licensing committees and for related matters”.

Mr. Vice-President, this Bill is asking me to support the omission on the part of Government to operationalize the laws correctly—to put a plaster on a bleeding wound and a self-inflicted wound, I may add. It came to the attention that the Bill came about by the previous Government but when the present administration came in place there was a lapse, there was a lapse where, you know, it was not operationalized, it was not—things were not put in place—could have been valid reasons, could have been a lapse, could have been you needed other laws to come into place all that is well and good.

But you see a validation Bill is not a usual piece of law. It is where Parliament is asked to consider authorizing something which happened which ought not to have happened. And we are being asked to authorize the operation of the Liquor Licences Act on which was effectively repealed law, to correct a mistake. I believe any piece of legislation should be for the benefit of the people. And would this Bill help people if it is passed? Well, it will certainly help the magistrates and those who granted licences from 2014 some immunity from their ultra vires decisions. But in the 2014 Bill my—you know, the 2014 Bill, when I look at this Bill, Mr. Vice-President, I am looking at this Bill being defective. I am looking at this Bill, you know, not being of benefit to the people and as such I may have a hard time supporting this present validation Bill if it would operationalize a 2014 Bill which I may have had objections to.

So, I crave your indulgence to just follow my line, in the sense that what I am trying to say is if I do not like the 2014 Bill I just want to elaborate why. Why I

had concerns when that Bill came about in 2014. So I would quickly state that I would like to negotiate with the Attorney General to hold this Bill presently and bring some quick changes in the 2014 Act, because I heard Sen. Wade Mark actually—*[Interruption]*—yeah. Sen. Wade Mark, actually asked the Government to hold their hand on this Bill until they can find out if we are overstepping any sort of boundaries in terms of judicial—you know, we are looking into the separation of powers—if we are stepping into some of the judicial separation that exists.

**3.10 p.m.**

I have a different reason to hold. I want to hold because I am thinking that the 2014 Act was something that I was very concerned when the previous administration brought this. So, I would like quickly to elaborate what I think needs to be done to improve the 2014, and in effect to give my support for the benefit of this Act; and secondly, how we can prevent the need for validation Bills in future.

Mr. Vice-President, I must say when this Bill was first introduced in the House by the hon. Attorney General, I was re-traumatized, *[Laughter]* and I said I was re-traumatized. It brought back memories of the disappointment I had when the previous administration brought this piece of legislation and when it was passed in Parliament then. It was around four/five years ago. I was highly critical of the 2014 Bill when I did an interview when I looked at the composition of the proposed Licensing Committee. I was concerned that the new composition that came about would have actually made it easier for persons to get liquor licences. In a sense, I think the way how the health of the nation is going, the way of global trends, we should not make legislation that could make it easier to get liquor

licences, especially noting that the use of alcohol globally has shown to be very dangerous to the health of the nation.

Mr. Vice-President, you see, in my profession I see the ills of alcohol, I see the effects on the wives and children of alcoholics. I see Alcohol Anonymous, they have Al-Anon, which sees about the wives, we have Alateen, which sees about the teens of the alcoholic individual. The whole family is affected. Alcohol does not affect just the individual and his family, it affects also society on the whole. The productivity levels falls. The cost of health care, and we are in hard economic times, so we have to look at any pieces of legislations where, if you are spending money to rehabilitate persons, if we are spending money to have to put persons into employment assistance programmes to treat them for alcohol abuse, why can we not pass legislation which will make it a little harder for those individuals to be addicted to substances? I am saying that we have it within in our power to reduce the ill effects of alcohol in this Chamber. We should feel proud if we pass legislation to decrease alcohol consumption in our nation.

I crave your indulgence to just, you know, just to get an opportunity to show some of the ill-effects of alcohol, and I want to just quote the—I would like to quote the first status report on alcohol and health in the Americas. This report showed that Trinidad and Tobago and two other Caricom countries were identified in this Pan-American World Health Organization report on alcohol use as having the highest rates of alcohol consumption in the Americas. Dominica and St. Kitts and Nevis were also identified in this report. So you see, we have seen international reports looking at Trinidad in this light, looking at the fact that our alcohol consumption is there. And it was noted that about one in five, or 22 per cent of common drinkers engage in heavy episodic drinking, which is higher than

the global average of 16 per cent.

In 2012, PAHO said alcohol contributed to the deaths of over 300,000 persons worldwide, and it contributed to 200 diseases and injuries including cirrhosis of the liver, and some types of cancer. So, the effect of alcohol is there, and we have it in our power to curb those effects. The hon. Attorney General always reminds us about the great deeds he is doing in terms of children, and the children in our nation, the fact that you know we have outlawed child marriages, the Children Court, the juvenile court is there, Sexual Offences Act, he is going ahead with that to try to see if we can help children who are abused in the homes. All these are good things. All these are excellent things which we need to rescue our children. But you see, we are still failing our children and I just want to give a quick figure to show how we are failing our children. So I may convince other Members of Parliament that the validation Bill saves the Government and the Judiciary, that is the Magistracy, from the ultra vires a, but not the persons who really need to be saved, not really the children of our nation.

I want to quote the health report card, Mr. Vice-President, which the Ministry of Health has on its website:

“Substance abuse is a major public health problem that impacts society... Substance abuse is associated with accidents (drunk driving), violence (child, spousal abuse, homicides...other crimes) stress and mental illness.”

And the:

“...survey...in Forms 2, 4 and 6 in both public and private school conducted by The National Alcohol and Drug Abuse Prevention...”—organization—“...found that the average age of first time use of alcoholic beverages was 10.9 years...”

So at 11 years, the first time use of an alcohol beverages was that:

“...with seventy five (75%) of all students having initiated alcohol use by age 13.

Harmful use of alcohol has a serious effect on public health and is globally considered...”—major—“risk factors...”

We in Parliament, you know we looked at the laws we are passing, and we looked also at many ills facing society, which we try to correct, the crime, the poverty, the unemployment et cetera. Mr. Vice-President, alcohol and the effects it has on us is something within our power to change.

**Mr. Vice-President:** As much as we would normally give leeway for a member to create context, based on what is engaging the attention of the House, at this point in time I would have to caution you to try to get back to the Bill that is before us dealing specifically with the validation. So you have already created that context. I am just going to ask you to move forward and get back to the Bill that is before us.

**Sen. Dr. V. Deyalsingh:** Thank you, Mr. Vice-President. So, Mr. Vice-President, I was trying to elaborate that we in fact pass laws that are for the good of the nation, and we have done that before. We have seen in the Tobacco Control Bill in 2009, we needed a three-fifths majority, and that was championed by the then Minister of Health, Mr. Jerry Narace. That was passed. We saw the restrictions of the display of tobacco products, and the penalties selling to children, that came about. And similarly, what I am saying is, that the Licensing Committee, if they are guided correctly, if they are given their powers to look at what is happening in society, what is happening globally, they may take cognizance of the fact that we may need to put some bans on alcohol. We are looking at laws in the United States, we have imported laws from the United States here. But, in the United States the age of drinking is 21—21 and up. Why can we not look at these pieces

of legislation and put it in our laws.

Permit me, just to quote one study, Mr. Vice-President. It is a study in the *Medical News Today*, *The Lancet*, and it is a study that was published on Friday 24 August, 2018 by Catharine Paddock and it is entitled: “The ‘safest level of drinking’ is none, says alcohol study”. So it is a comprehensive worldwide study. It shows the global burden of disease—

**Mr. Vice-President:** Senator, it is not a debate on the effects of alcohol, as much as the Bill speaks to a committee that treats with that. But, the Bill speaks to a particular process that we are trying to do here today, and therefore, I want you to focus on what is in the Bill, and not so much on things like the effects of alcohol, because you are walking a very fine line, and you are sort of starting to become irrelevant to what is before us. So I am going to ask you to focus on what is before us, while you continue your contribution.

**Sen. Dr. V. Deyalsingh:** Thank you, Mr. Vice-President. I am looking at—if we are looking at this Bill, we would look at the fact that it has certain aspects there which I looked, and I disagreed with the old Bill. I am saying because I disagreed with the old Bill, I cannot give my support to this new Bill, and I am trying to elaborate why the old Bill, I had some reservation, and I had some reservation because even the old Bill is failing us in—

**Mr. Vice-President:** Senator, let me remind you that we are not debating the old Bill, right. We are debating the Bill that is before us, and that is why you are walking a very thin line. So you have made the statement that you do not fundamentally agree with the old Bill, and therefore, you may not be inclined to support this Bill, but just remember in your contribution, you are not debating the old Bill. You are debating this new Bill. So just be very careful as you are

walking a thin line, along that particular point that you are making.

**Sen. Dr. V. Deyalsingh:** Thank you, Mr. Vice-President. What I am trying to do, and trying to establish is, if the hon. Attorney General wants our support, I am trying to negotiate with him in a certain light, why we need to go back to that old Bill if he wants to bring any changes before I can give that validation support. So, it is a point I wanted to make, about the fact that what really exists out there is this Liquor Licence (Amdt.) Bill that I looked at in 2014. I looked at an aspect of it where we had persons trying to close certain bars. There are several bars along Aranguez Main Road and the operationalization of trying to get this Bill—the existing Bill, the old Bill, 2014 to work—we had great difficulty, major difficulty in trying to get that—so what I am saying is, if we are looking at this Bill to serve the population we have to look at this Bill to see how we could improve it, before we can go further in my opinion. I am looking at that aspect.

I am seeing the fact that from 2014 there were 14,596 licences as granted under the Liquor Licences Act alone. So all these would be affected by this Bill not being validated. It is a lot of liquor licences that has been granted, and the fact that alcohol use was the main cause of death for people age 15 to 29, and 12 per cent of deaths in men; that was done in a global study. So, we have the fact that alcohol is there, but yet still we have the fact there are a lot of persons applying for this liquor licence.

I think the important fact of this Bill is—the objection I had initially, whereby the composition of the Bill—of the Committee—was changed from it old Committee, which had the magistrate, an authorized officer for the licence district, and one person nominated by the Minister. So, under the old Bill the Licensing Committee consisted of those persons, but there was a change, and in this change,

it was changed in 2014, no doubt, to save the magistrate's time, because they have seen the Gurley Commission, the MacKay Commission, which looked at judicial time. It was agreed then, that to save judicial time, we should take the power away from the magistrate, give it to another body, which makes sense, in serving judicial time, leave the magistrate to handle those matters. And now the responsibility for chairing these sessions was now put in the hands of the Clerk of the Peace. The magistrate still will have a role, you know like if somebody wants to appeal. If after dispute resolution fails, then the magistrate could come in after.

But, the present law I said, is failing us, and why I say it is failing us, is the fact that we look at the present law Mr. Vice-President, and the present law states you are not supposed to sell alcohol near a place of worship or schools, but I can quote examples where that can happen, and we can see that. So this is something I have great concern in, because the school children, places of worship, all those things are in the existing 2014, but it is not—somehow it is not working, because we have cases, Mr. Vice-President, places, right in Aranguéz I can show you these places. I can name certain places, Diego Martin schools, and it is there, it is there for the people to see. So the people want to know why are we passing legislation and the old legislation is not working.

**3.25 p.m.**

Curepe Fatima RC School, within close proximity. Section 21 of the Act says you have to be 400 metres, you know—more than 400 metres from a school or a place of worship—Mucurapo Girls School, and the list goes on and on.

So, therefore, I am looking at the fact that if we have to look at the new composition of the committee, the Licensing Committee, we saw it was the Clerk of the Peace, according to section 5, the Clerk of the Peace, a representative from

the regional corporation or the municipal corporation or the Tobago House of Assembly, if it is in Tobago, and this is the part I found a little, you know, dangerous. It was a member of the business community or business representative, Mr. Vice-President, appointed by the Minister.

So, actually, I looked at if there is a business, if there is a bar, if there are persons selling alcohol, why do we put members of the business community into this new committee? What is the logic behind it? You have the business community—you see the sale of alcohol to minors, you see the sale of alcohol to persons, even though we know it is a great burden to society, but you are putting a member of the business community there. This is why I objected to this. It should have been a member of the clergy, a member of the school and a member of the PTA, and this is what. I looked at that part—

**Mr. Vice-President:** Senator, I am listening to you and I am waiting for the tie-in specifically. Now, you have made that tie-in to say that you do not support the 2014 Act, and that is understandable, and that is why you have difficulty supporting the Bill that is before us today. The problem that I am encountering, over and over again, is that it forces you to refer to specific sections of the 2014 Act to explain yourself as to why you do not support that Act. That is one point that you have made and, therefore, coming in to about halfway through your contribution, it still remains as the singular point, and secondary to that you keep going back to that 2014 Act.

What I am trying to say is, there is no need to go back to that 2014 Act. You are dealing with the Bill that is in front of us that asks to validate a particular thing that has happened. So your points, after you have made that original one—that you cannot support it and you have given the reasons why—there should be more

points dealing with the Bill that is in front of us and what it is asking us to do. So in relation to the 2014 Act, do not bring it up again, because then it makes your contribution irrelevant, and you would be in breach of the Standing Orders. So if you have any other points in relation to what is in front of us and what it lays out here, you are invited to do so.

**Sen. Dr. V. Deyalsingh:** Thank you, Mr. Vice-President. So, Mr. Vice-President, I now come to point two, where I would like to state that I understand the dilemma that the present Government faces and what is asked of us. And the Act was proclaimed and came into operation, but then, you know, the Government did not constitute the committees. The magistrate was sitting, as in section 5 of the Liquor Licences Act, Chap. 84:10, had not—as I say, if it had not been repealed and replaced—in other words, they were acting *ultra vires* of the law.

We are being asked to validate acts, decisions, omissions and proceedings of defective committees over the last four years and to grant immunities, but I am saying the Government had four years. Was it oversight? Was it more pressing Bills? Was it a bureaucratic delay? I support, as I said, Sen. Mark's suggestion on how we can prevent this in future, if we would be able to prevent something like this from happening.

So we have been seeing that laws may be passed, but somehow it is not going down. You know, nobody may be looking at it to see how: Is it being operationalized? And this is a defect we have, and this is why Sen. Mark hadan excellent suggestion, I think, of having a permanent standing committee called the post-legislative scrutiny committee, which could look into any sort of legislation that we have, and to prevent this situation from arising again, to ask us to validate certain things in future—Bills in future that, you know, were not operationalized.

I looked at the fact that, you know, I was tempted to say I would give my support to this Bill. I have done support to other Bills before—the NPO Bill, the assets Bill, because in those cases I did not want our country to be blacklisted. I saw the urgency, the need for that. So, definitely, in those Bills, I would have looked at, you know, if there were any sort of erosion into the rights of the citizens, into looking at sections 4 and 5 of the Constitution. I looked at the greater good of the country. I looked at the greater good of having the fact that our country could be blacklisted and I supported those Bills.

However, now we are being asked to, you know, again, give up some of our constitutional rights and, you know, I am thinking that, you know, we cannot be coming week after week asking to go into the Constitution and to give up some of those rights. And unless I am convinced otherwise by other speakers, I too, like Sen. Mark, would ask for a delay in this Bill. And again, I, too, would hope that if there is a delay in this Bill, we would be able to reconstruct the Licensing Committee in such a way that we could more protect our children and more protect our society. Thank you.

**Hon. Al-Rawi:** Hon. Senator, if I could ask a question just before you wrap up. In asking for a delay of this Bill, just to get it clear, you are asking to go back, fix the concerns of your 2014 iteration of the Bill which you did not support—fix that—and, in the meanwhile, leave the years of exposure to the current Magistracy. I would just like you to just clarify that bit so I could understand how to position the responses that are going to come.

**Sen. Dr. V. Deyalsingh:** Hon. Attorney General, it is just one aspect of the last 2014, I did not like, is the actual composition of the Licensing Committee. I did not appreciate the fact that a member of the business community was there. So I

am saying it should be a simple change, if we just change that aspect of it because I think having a member of the business community in what Licensing Committee would be biased in terms of the business side and not look at the social needs.

**Hon. Al-Rawi:** And thank you so much, hon. Senator. And if I could just ask for clarity then. In respect of the Acts which need to be cured because of the wrongful early proclamation of the law by the last Government, and the time frame that it took to put the things into place, because there was an active space of doing that, to get the nominees, the appointments. There is a process, so that took time. It was being done, but you do not prompt a result before its time. The point is, you act with anxiety. In terms of that exposure that the country faces—and I would explain that in my wind-up—is there a position that you have on that? Is that something that you are prepared to fix by way of this legislation?

**Sen. Dr. V. Deyalsingh:** Hon. Attorney General, I would gladly try to—you know, the validation Bill, I have no problem in supporting that, but I am just hoping that I could use my little piece of negotiation—

**Hon. Al-Rawi:** Sure.

**Sen. Dr. V. Deyalsingh:**—because if you ask me for three-fifths, unless you pull a Suratt on us today [*Laughter*] I am looking at a defect in what I consider a major social ill in the whole legislation that I think we need to really put a hold on. Thank you. Thank you. [*Desk thumping*]

**Sen. Khadijah Ameen:** Thank you, Mr. Vice-President. I rise to give my contribution to this Bill to amend the Liquor Licences Act, and I want to begin, Mr. Vice-President, by expressing my support, even though I was not a part of the Parliament, at the time, when this Act came into operation in 2014—well, when it was brought to the Parliament in 2014. Mr. Vice-President, as you are aware, I

have served in local government, 10 years as a councillor, but even beyond that period serving in the Ministry as an advisor, but always within communities and I became involved in politics because of my involvement in communities.

Mr. Vice-President, one of the things about the parent Act that I felt was a forward step—well, two things really that I found were very positive was, one was the fact that the magistrates would now be free to deal with other matters, and very dear to my heart was the fact that there was a mechanism to allow communities, interest groups, to have a say in the process of granting licences. I believe in collaboration, I believe in consultation, because it is an extension of democracy beyond just casting your vote for a general or local election.

Mr. Vice-President, the opportunity for schools, for community residence, for religious organizations or institutions or any stakeholder group to have an input into the procedure that would grant this licence, empowers citizens and it is a measure, I believe or I would like to see incorporated in other forms of decision making in this country by the Parliament, as well as by the Judiciary. And it is an approach I think that more state agencies, whether it is legislated or not, should adopt as we move beyond just what the legislation tells us and move into a culture of engaging others.

Mr. Vice-President, that being said, I must note without calling names and giving the examples, the specific examples, that there are a number of instances over the past, at least, two years where licences would have been granted and citizens would have had the opportunity to make an input and may have felt—well, may have been unsatisfied with the results. So, for instance, they had an objection to a licence being granted to operate a dance hall, a bar, any one of those—a club, anything like that—within what they felt was an inappropriate area—near to a

school or especially in residential areas—and they would have made an objection, and they may not have been satisfied with the outcome because the licence was still granted, or in an instance where they made an application and they were successful in their petition and the applicant may have been turned down.

In these instances, you may have had persons on either side—either the applicant or from what I would call the general citizenry who made an objection—who may have contemplated legal action based on the provisions in Act No. 16 of 2014. It is my understanding that the present Bill to amend that Act now says to participants on either side—that you no longer have a legal claim, that you no longer have the opportunity to make an objection against if you felt that there was an injustice. That, Mr. Vice-President, of course, it is a backward step. But I am certain, I feel certain that that could be dealt with differently. There are provisions that have a direct impact on the procedure, but there are other provisions in the granting of the licence and granting this blanket—well, to me, the way it is phrased it sort of gives a blanket condemnation for all the procedures that would have been before the court during that time.

So, Mr. Vice-President, I have heard the legal persons go before me expressing their concerns on the Independent Bench, for example. You will hear more on the Opposition Bench, and I know that the Government speaker who spoke before me, the Minister of Agriculture, Land and Fisheries, Sen. Clarence Rambharat, would have given a different perspective because of the bench he is on, but I think he does also share the concern based on his legal training. Mr. Vice-President, this brings me to my next point, which is, if it is expected that this Bill gets the support it requires here or in the Parliament—not just in the Senate, not just in this House, but from the Parliament—what is the next step to ensure that it

is adequately implemented?

There are so many pieces of legislation that come here that go out, that get assented to and you find such a delay in the time for implementation, and I do not think this Bill is different from many other pieces of legislation that meet that challenge. It is important when we bring legislation to Parliament that the stakeholders are a part of it so that they could be prepared. I am not going off on a tangent, but because I am so rooted in local government, I am waiting for local government reform to come, but the people who are in the regional corporations who have to implement it, they have not been engaged. So if the Government does bring it within this term as they promised, the fact is that the people who are the boots on the ground who have to implement it have not been engaged and not ready for if the legislation does come, and if it is proclaimed and if it goes out to the regional corporations and it is the same thing.

My concern here is similar because the Judiciary is separate from the Government, and that level of engagement has to take place with the separation of powers in mind. The Judiciary now would be in a position to know what is required, but before all of this, before we come to the Parliament—and, in fact, perhaps the Attorney General should play a role when he is asking this Parliament to support this piece of legislation with the retroactive provisions—you should be in a position to say the Judiciary has reported that they are now in a position to implement the procedures by X, Y and Z date.

So we are coming here for a “bligh” as my colleague Sen. Haynes indicated. You are coming here to ask for a mistake to be forgiven, for measures to be taken to correct it, but I have not heard a single Member on the Government Bench indicate either through their consultation with the Judiciary, through the service

commission that represents the Judiciary or the Chief Justice any indication that the justice system, that the court has the resources and the readiness to put the new provisions in place. So that is a concern of mine.

Mr. Vice-President, I just took a note that the Attorney General, in laying the Bill, did so in a previous sitting. We continue the debate today and his colleague, the Minister of Agriculture, Land and Fisheries, essentially contradicted him, because the Attorney General admitted to the Parliament and to the public, that this is something that happened that ought not to have happened, and he is seeking to have the issue forgiven and, possibly, turn over a new leaf, essentially—those are my words—but his words were more, it ought not to have happened—right?—as compared to what the Minister of Agriculture, Land and Fisheries said. The essence of what the Minister of Agriculture, Land and Fisheries said which was, it is not such a strange thing. He proceeded to give indications of other pieces of legislation that had retroactive features, but many of those were very different to what is being asked of us today.

So while it is good research, it reflects good research—I commend your staff, I commend you for your research—but it cannot be a different story, a different guy on a different day. So the explanations that he would have provided with the THA, the census, the CSO issue, and so on, those are very different; very, very different and they did not have the potential to have the implications as these did. I know he knows that, but it was a good attempt to try to say this was nothing strange. But, perhaps, I think the Attorney General has admitted that this is something that ought not to have happened, and let us take it there. Let us take it from there. It ought not to have happened. So, please do not try to tell us, it is nothing strange, it is okay to go ahead and give it your thumbs up, your vote, in

favour of it.

Mr. Vice-President, I also want to endorse a point that was mentioned, but not expanded on by the Independent Sen. Dr. Varma Deyalsingh with regard to post-legislative scrutiny. This is something that we in Trinidad and Tobago have not had much of. It is optional, voluntary, if it exists at all, and it is perhaps a time for the Parliament, the entire Parliament, to consider starting to look at measures for post-legislative scrutiny. It would allow us to increase parliamentary oversight on policy delivery and to consolidate the country's legislative cycle. I mentioned earlier that there are many pieces of legislation that are passed with very good intention, proclaimed, but the challenges in getting them operational lead to years and years of lapse and, effectively, defeating the purpose of the legislation.

When we sit on joint select committees—I want to say, Mr. Vice-President, during this term was the first time I had the opportunity to participate as a Member of this House on joint select committees, beginning in 2015 and the beginning of my term in 2015, and it is far different from watching it on TV, watching it on television, because we get the opportunity to question in an enquiry in a public hearing from the stakeholders—the people who have the responsibility to implement in the various Ministries—and sometimes the joint select committee hearings do not make the news unless it is something sensational like the number of children under 10 years old who become pregnant in schools or something as dramatic as that or something very controversial with regard to public funding and improper disbursement and so on.

However, there are a number of particularly social issues that get swept under the carpet that I believe we must have a time frame by which to re-examine, particularly, when it comes to public health, to education and to national security.

Those are three critical areas I believe post-legislative scrutiny will play an important role. It will require us to revise the parliamentary rules of procedure to include the role of post-legislative scrutiny in the Parliament.

There are a number of international models to follow. More and more Parliaments are engaging, are beginning to include post-legislative scrutiny, and there are studies done by persons who in the field of public administration and governance with a lot of data, with proposed systems that you can adopt to suit our culture and to suit our purposes. It is also important if we are going to consider post-legislative scrutiny, to identify the resources and the relevant structures that would be required to establish the post-legislative capacity at our Parliament. Just today we had some guests from the Parliament of Canada, and experience sharing, I think, will also be a part of that. We have brilliant staff members at this Parliament beyond the hon. Members who sit on all the benches in the Upper and Lower House. I have a lot of confidence in the staff at Parliament and their capacity to make recommendations for post-legislative scrutiny. [*Desk thumping*]

So, Mr. Vice-President, what I would like to see is the Government to just have one—well, just to make up your minds it would sound—that is not the effect I want it to have—but come together and decide if your approach is, look, things have gone wrong, we have to correct it; or, this is par for the course. It is either one or the other argument. You cannot have two. And, also, Mr. Vice-President, I would like—of course we have to rely on those people with legal training, but I would like to see a protection for legal objections that on decisions made over the last couple years whilst this situation was ongoing, that would allow those objectors to still have a case while correcting the situation, because there are grounds on which there would have been objections, separate from the

composition of the committee.

And I know that the composition of the committee is exactly the issue that is at hand, but I hope even though I am not an attorney, I am conveying my concern to the Government and to those on the Independent Bench who have legal training and may have a better phrase to use. And my interest here is protecting, one, the persons, the community and interest groups, who may have had an objection and who may have made an input into a decision and that decision would now be—they would have no opportunity to object if the decision did not go in their favour or persons who, as my colleague, Sen. Haynes referred to, did not get the approval granted whose applications were turned down and they felt they would have been treated unfairly.

[MADAM PRESIDENT *in the Chair*]

So those are my concerns, Madam President, and I hope that they can be addressed. I want to say that I am open to discussion with the Government. I am sure we have a committee stage, but I hope that we go into this with an open mind in the interest of justice, and that we are very careful not to set a dangerous precedent, because we have seen instances of retroactive approval coming to Parliament, but we must be very mindful of the separation of powers and so on. With that, Madam President, I thank you for the opportunity to contribute. [*Desk thumping*]

**Sen. Dr. Maria Dillon-Remy:** Madam President, I am pleased to be able to contribute to the debate on the Licensing Committee (Validation) Bill, 2018. Initially, Madam President, I was appalled that this error could have continued for this length of time from 2014 to now 2019. However, I do appreciate the reasons given by the hon. Attorney General in trying to remedy the wrong. I would like to

say though that, in my understanding, some effort should be made to not have this kind of thing happen again.

If something is passed, a Bill is passed and the President assents to it, somebody must have a responsibility to take it into action [*Desk thumping*] and I do not know, on either side, wherever—in other words, whose responsibility it is—whether it was the previous Government as the Attorney General said—and then when he came and realized that there was a problem, what had to be done. I am saying, we should try, Madam President, to ensure that we do not have to come back to the Parliament to do things like this. Even Sen. Rambharat talked about the fact that in other countries that things have gone unnoticed for years. It is my hope that this does not happen again in Trinidad and Tobago.

Madam President, the Attorney General did give statistics for the number of liquor licences that were granted during the period 2014 until now. However, can he indicate during this period, how many licences were denied? The same question Sen. Haynes asked, I am interested, because I think that these are the persons who would be interested in having their grievances addressed.

I would also like to find out from the Attorney General, if there was any committee that was formed in the way that it should have been during this period? I think I heard the Attorney General say that when it was realized that these committees should not have been chaired any longer by the magistrates, some people tried to do what was right by the law.

**3.25 p.m.**

If that is so, if this law is passed now making everything that happened between 2014 and now right by the pre-2014 law, what would happen if there were some committees that tried to put the right things in place? I think I heard the

Attorney General say something like that, but I do not know. And, Attorney General, I am not sure if you are understanding the question I am asking. The question I am asking is that we had a situation where the Act was assented to and the people continued as though it was not. When they realized that, like you said when you came into office, probably a year or so after, it was realized that these committees were operating ultra vires. My understanding is that some of them tried to right the wrong and therefore there may have been some committees sitting chaired by Justices of the Peace. If that is so and this law is now passed and put retroactive to 2014, what would happen to the decisions made by those committees?

**Hon. Al-Rawi:** There were none. No committees were chaired by the Justices of the Peace, all by the magistrates until we installed the committees in the correct fashion, and that was done by an Act of the Cabinet by way of decision of the Cabinet with instruments of appointment, et cetera.

**Sen. Dr. M. Dillon-Remy:** Okay. So, Attorney General, you are saying that there are some committees that are operating—Madam President, is the Attorney General saying that there are some committees that are operating now?

**Hon. Al-Rawi:** Properly.

**Sen. Dr. M. Dillon-Remy:** Properly. So, therefore, if this is passed those committees would not have to be covered by this law?

**Hon. Al-Rawi:** Correct.

**Sen. Dr. M. Dillon-Remy:** Okay. And they would not be?

**Hon. Al-Rawi:** Correct.

**Sen. Dr. M. Dillon-Remy:** Okay. Thank you.

Madam President, I think, from what I understand of this law that we are being asked to address here, it seems as though it is something that is very—well, simple in a way in that there was a breach and there is an attempt now to make things right that were done wrong. My understanding of clause 7—my non-legal mind, Attorney General, says that you are saying here that as long as the persons were operating within the law, pre-2014, that any decisions that they made at that point in time is being—you are ratifying their decisions. In other words, you are saying that they were acting in accordance with the law at that point in time.

**Hon. Al-Rawi:** Yes.

**Sen. Dr. M. Dillon-Remy:** But if they were not, they can be challenged, and, I think, as a result of that, there is no issue here in my mind as to whether you were just giving them a blanket license. My concern therefore at the end of this all is, Madam President, if as a Parliament we should try to make sure that the systems be put in place to ensure that when an Act is passed that it is duly—when an Act is assented to that it is duly put into effect by the people who should be doing that and, as a result, not have this kind of thing happen again. I thank you. [*Desk thumping*]

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

**Sen. Ashvani Mahabir:** Thank you very much, Madam President, for recognizing me. I consider it an honour and a privilege to be given the opportunity to participate in this debate today on a very important matter. Madam President, the Bill before us seeks to validate the constitution of licensing committees established under section 5 of the Liquor Licences Act, as well as the grant, transfer and renewal of licences and all other acts and omissions by Licensing Committees and for related matters. If I may, in my contribution, put this into some perspective, in

summary, Madam President, there is the recognition that for the period of time, commencing 2014 to now, the Licensing Committees which constitute the licensing authority with specific powers to deal with licences and incidental matters under the Cinematograph Act, the Registration of Clubs Act, Registration of Clubs Act, the Moneylenders Act, the Pawnbrokers Act, the Licensing of Dealers (Precious Metals and Stones) Act and the Old Metal and Marine Stores Act were not conducting its business in accordance with the miscellaneous provisions Act of 2014. And I have repeated those Acts because the role and function of these Licensing Committees is an extremely big one.

So far the debate seems to have pointedly gone in the direction of simply liquor licences but these committees have a very, very, very broad responsibility. There are several bodies that fall under the jurisdiction of these committees, and I have mentioned them there. And not only that, these committees sit in 13 districts across Trinidad and Tobago, so it is a lot of work. In particular, Madam President, after the commencement of the Act of 2014 the constitution of these Licensing Committees continued in accordance with the old legislation. So operationalization of the legislation did not occur, and for me it seems for reasons that have not yet been fully articulated or ventilated. So, Madam President, essentially we have had a material omission to have the 2014 legislation fully operational across Trinidad and Tobago. Essentially, the legislation, Madam President, it seeks to validate two things; one is the constitution of the Licensing Committees themselves, and, two, the acts and omissions of the Licensing Committees, including the granting, the transfer and the renewal of licences.

So let me start, Madam President, with the constitution of these committees. The specific changes that would have been made by Act 2014, section 2, would

have provided for a licensing committee in each district consisting of the following members: a Clerk of the Peace, where more than one Clerk of the Peace is assigned to a magisterial district; a Clerk of the Peace designated by the Chief Magistrate; a person or his alternate nominated by the Tobago House of Assembly or the municipal corporation in which the Magistrates' Court is located; another person nominated by the Minister, that is subsection (1). Another important change to the 2014 legislation which goes to constitution, because I know that the Bill has to do with validating the constitution, was that wherever a committee sits for the transaction the Clerk of the Peace shall be the chairman. So this section speaks to the presiding officer. And subsection (3), Madam President, it goes on to say, and I need to state this because it formulates part of my contribution today, that two members of a licensing committee shall constitute a quorum, two members. This part with respect to quorum is something that, I think, we need to look at.

So far, Madam President, it appears to me that the only issue as to constitution that the Government is seeking to rectify is that for the specific or for the specified period magistrates were continuing to do the work that had to be done by the Clerk of the Peace. My question is: Is it that the chairmanship, the person who presided at these sittings, is that the only issue as to constitution or composition that has to be rectified? In other words, would this Government be satisfied, or is it satisfied that the other requirements of the section (2) that goes to constitution have been met? And particularly, as I said, the issue of quorum required as being met, and was it being met with sufficient consistency so as to meet the requirement of the vast number of licences that had to come before them, before these various bodies, Cinematographic Act, those dealing with precious stones and metals, and so on? And I make the point, Madam President, because

from my experience—and I am reliably informed from many other attorneys who appear before the committee in the various districts that there are many times that applications are kept in abeyance and in a state of temporary suspension when committee meetings have to be adjourned because a quorum could not be met, and it mattered not whether a JP or a magistrate was present. A quorum could not just be met.

And if I may, Madam President, just indicate, by way of an example, what happens when there is no quorum and an application is deferred? If you are looking for a renewal or a transfer of your licence you either have to close up your shop and wait for the date of the next session, or you sell under your old licence which is an illegal act, but it happens in Trinidad and Tobago. So it sets your business back, Madam President, and a small entrepreneur—

**Madam President:** Sen. Mahabir, if I may, the Bill that is before us is very specific and you are going into some detail about the process of a licence being granted, but that is not what the Bill is about, the specific focus of the Bill. So I need to ask you to just tighten your contribution along those lines, please, along the focus of the Bill. Okay?

**Sen. A. Mahabir:** I am thankful for that, Madam President, but I am trying to put my argument within the context of the constitution of the Bill, and I am saying that when we deal with the constitution of the Bill we do not just look at the presiding officer, which appears to me to be the issue that many speakers before me took. For me and for my practical experience, the issue of constitution, if we are validating constitution, and that is what the Bill says that we are validating constitution, as well as the acts and omissions of the licensing committees, my point is that who presides over the committees is but one aspect of constitution of

the committees, and I was making the point as to quorum. So, Madam President, what happens when a licence is adjourned is that people, first-time applicants for example, they lose out in their business.

**Madam President:** Sen. Mahabir, you are now restating what you had stated before. I am trying to guide you in your contribution, and I am trying to guide you on relevance. The Bill that is before us is not going through all of the entire process to get a licence, it is specific to something that was not done pursuant to a prior Act of Parliament. So I need you to just heed my advice and tailor your contribution to be relevant to the Bill, please.

**Sen. A. Mahabir:** I am thankful again, Madam President, for your clarification.

I would move on to what appears to be a significant part of this debate which has to do with the question of legality and whether we can in fact do what we are attempting to do here. I heard the Minister before me, and indeed other speakers, allude to the fact that Acts to validate a former Act has come to this Parliament before; the example of the 2001 census was used, and there was another example of a validation Act being brought here with respect to the Tobago House of Assembly election. So, this Parliament can in fact validate. But the question for me, and I think Sen. Haynes also alluded to this point, and Sen. Vieira as well, is whether or not for the first time we are seeking to validate a judicial function. [*Desk thumping*] So we have no issue with whether or not the Parliament could in fact validate. There have been former examples, we accept that, but it appears to me to be the first time that we are attempting to validate decisions taken by magistrates, and of course that brings into play the whole question of the—as other speakers alluded to—the whole question of the separation of powers, and so on. And whilst, Madam President, I would not want to go into any long intellectual

debate with respect to what the separation of powers is, I would like to briefly refer to the *Constitutional and Administrative Law* by De Smith, and this is the 1987 Fifth Edition, where in a discourse under that question of separation of powers, it says:

“To concentrate more than one class or function in any one person or organ is a threat to individual liberty”.

Specifically, it says:

“The Executive should not be allowed to make laws or adjudicate on alleged breaches of law; it should be confined to the executive functions of making and applying policy and general administration.”

It refers to a famous Judicial Committee of the Privy Council case which held that implicit in the Constitution lay the principle that the province of the Judiciary was immune from the grosser kinds of encroachment by the Executive and the Legislature. So the question and the issue of separation of powers is something that, I think, Madam President, we need to look very, very close at.

There is a South African case before the constitutional court of South Africa, Madam President, recorded in 2002, 14 BHRC, Butterworths Human Rights Cases, and in this case, the case of *Van Rooyen v South Africa*—my apologies—*Van Rooyen v South Africa* of 2002, and in this case there were some consideration of the question of institutional independence. And what this case decided was that the test for institutional independence was how matters appeared to a well-informed thoughtful and objective observer sensitive to the country’s complex social realities. So, my question is then, can we say that this test has been satisfied with the objective observer, well-informed and thoughtful, be convinced that one arm of the State, in this instance, in the instance of this validation Bill, one arm of

the State is not interfering with another arm of the State. My respectful submission is that that test has not been passed.

Moving on, Madam President, and I understand, I appreciate your guidance that we are not looking at the 2014 legislation but we are dealing with a specific validation Bill, but it would be remiss of me, and indeed of this Parliament, if we did not address or if we attempt to address this Bill in a vacuum, because the Bill does not float on air. It is not dangling in mid-air like a kite. There is a string attached to this Bill and that string leads back to the parent Act. So whilst I am not dealing specifically with the parent Act it must be referred to in some way. I note that the Attorney General, in presenting this Bill at this House, had noted the illegality with respect to the composition of these committees to the point that he and the Office of the Attorney General would have engaged in a very deep scrutiny of the operation of the licensing committees. And I am wondering whether in the deep scrutiny—because the Attorney General would have provided some figures as to how many licensing, and so on, were approved—if in the process of that deep rigorous scrutiny, an examination, whether any other issues were spotted that needed to be rectified with respect to the old legislation, the 2014 legislation that is. Because, Madam President, for me, and indeed for the entire House, we have to be fair, and something went wrong. No one is prepared to point fingers and to cast aspersions on the other. What we know is that we have to fix it, but if we are going to fix it, I think that we need to fix it in totality.

In other words, Madam President, [*Desk thumping*] would this singular act of validating what was an obvious illegality, would this act of validating fix the broken foundations of the operations of a licensing committee or are we merely fixing a crack? My question is therefore whether we are doing a plastering job

with this Bill. And in those circumstances, Madam President, I would like to ask a couple of questions. If we validate the composition are we satisfied? The Attorney General in his presentation hinted to the number of licences that have been granted and that gives an indication, Madam President, of the density of work that goes before these committees, but are we satisfied at everything else with respect to composition is working? These clerks, are they sufficiently trained, for example, to handle all these licences that come before them? And I ask this as well, Madam President, the question of training of the Clerk of the Peace is because this too, the question of training, goes to a committee that is properly comprised, constituted and able to do its functions.

I also wish to ask, in the context of this debate, is that if we fix the constitution of the committees and the composition of these committees, are we satisfied that there would be a smooth flow of applications? And I am asking that in the context of whether the other institutions important towards the proper working of this legislation such as Town and Country, and so on, I am wondering whether those other subsidiary bodies are—

**Madam President:** Sen. Mahabir, I do understand the point that you are trying to make, that you are making, but I want you to understand that those points would have been more relevant to 2014 when that particular piece of legislation was passed. Those points are not the focus or central to the Bill that is at hand. I allowed you to start your argument but you are going to continue with it, and I feel I have to warn you that it is not relevant to the matter at hand.

**Sen. A. Mahabir:** Thank you, I am guided. Thank you, Madam President, I am guided. I want to look a bit, Madam President, at the issue of delay, and I know that the Attorney General, in piloting this piece of legislation here, alluded to the

fact that it was not until 2016 that it had come to his attention that the old law, or that the 2014 law was not in effect. And the Attorney General went on to say, and I am quoting from the *Hansard* of May 07, 2019, in explaining the question of the delay the Attorney General said:

“...it was important to do two things. One, to immediately get about the appointment of the committees under the existing law, as amended in 2014.”

And the Attorney General said that that exercise would have required some time with the Judiciary, the chambers of commerce and the line Minister responsible for Local Government.

The second thing that the Attorney General said, in explaining the delay, was that the Government went about an exercise of reform in relation to the Magistracy which was in fact a very important measure. And the third point provided for the delay was that the Office of the Attorney General would have been involved in a process of marshalling the data from all the bodies and the 13 districts regulated by these committees and not just relevant to liquor licences. So the Attorney General, Madam President, did in fact extend reasons as to why there was some delay. The question is whether those reasons, whether we on this side find those reasons to be reasonable and practical. And we on this side, Madam President, think not. We believe that something should have happened and something should have happened earlier. Surely in the circumstances of recognizing a body acting *ultra vires* the law, there would have been a stronger case to act with haste, with speed and alacrity, especially when you are dealing with 14,596 licences granted; not those applied for, that number is way higher, and this is liquor licences alone. If you consider the applications of all the various bodies that I mentioned before, this is a lot.

The fact is that the statistics that were being collected by the Office of the Attorney General should have said something to him that something had to be done with urgency. Those statistics, Madam President, should have raised a red flag that we had to act with haste or that the office or the Government had to act with haste. And, Madam President, I am not ascribing any blame here, I am merely saying that we on this side are not entirely satisfied with the reasons advanced for the delay and we believe that a solution should have come earlier.

So, Madam President, in closing, we have some difficulty from a constitutional and legal point of view and also from a hands-on or practical experience that we have before licensing committees. We believe that if the Government simply validates all that was done before, it may not fix the problem in totality. Whether it is a magistrate or a Clerk of the Peace, for us on this side, does not cure the other issues, some of which I was alluding to. And in that instance, Madam President, we believe that the validation Bill may simply be going—what we may be actually doing is simply polishing a shoe with a broken sole. I thank you very much. [*Desk thumping*]

**4.25 p.m.**

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

**Sen. Taharqa Obika:** Thank you very much, Madam President. I rise to place a few questions on the record, my contribution shall be pointed and very brief. I see by the hon. Attorney General's exaltation, he welcomes the brevity of my intended contribution.

Madam President, whilst we were debating here, we understand that of course persons—the number of licence holders would require a robust system for support by the Government and it grieves me to put on the public record of course,

that whilst we are debating here, in San Fernando rats have forced the Registrar General's office to close. And of course you would understand the importance of the Registrar General's office to this entire process, because all these organizations that are required, the moneylenders for example, the bar licence holders are required to file their information with the Register General's office on an annual basis. And of course if that is one of the limbs within which this entire system stands and it is shaky, we have a problem there.

The second problem I want to point to is on page 5 of the Act and it speaks to the section 2, subsection (f), part (i), regarding the Magistracy's involvement. And given the involvement of the Magistracy still, notwithstanding the utilization of the committees, it begs the question whether the status of the Magistrates' Courts across the country, in particular in San Fernando, and Madam President, I want to ask the question to the hon. Attorney General in winding up, how would that be resolved given the fact that we have problems with infrastructure and accommodation.

The last point I want to put on the record really has to do with, more or less looking at opportunity for improvement regarding this Act—if we turn to page 22, I believe it is of this particular Bill.

**Madam President:** No, Sen. Obika, this Bill has five pages. There is no page 22.

**Sen. T. Obika:** I apologize, Madam President, I was actually referring to the parent Act, or the Moneylenders Act. So when we look at the Moneylenders Act—and this is my closing question really, for the hon. Attorney General. It has to do with—we received information from stakeholders and some stakeholders who are moneylenders themselves, asked me to pose the question to the hon. Attorney

General, regarding the advertisement and the restrictions placed on advertising and if that could be looked at going forward. Madam President, I am—

**Madam President:** No, no. I know, Sen. Obika, you said that you are making a brief contribution, I do know that, but I really have to—even if it is a brief contribution, just guide you that that is not relevant to the matter at hand, okay?—what you just raised, so—

**Sen. T. Obika:** So, Madam President, in closing, I appreciate your stewardship, your shepherding the course of this debate, notwithstanding every contributor's desire to go to the parent Act, as I too have that desire.

In closing, basically, I want to ask the hon. Attorney General, in winding up, to explain or outline how would the challenges with accommodation that fall under his Ministry be addressed, and hopefully, in particular, the issue of rats in San Fernando, how would that be solved. I thank you very much, Madam President. [*Desk thumping*]

**Madam President:** I would at this stage, suspend the sitting and we will resume at 5.00 p.m. So we are suspended until 5.00 p.m.

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

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

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

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam President. I must apologize, I was told that Sen. Hosein was scheduled to speak and so I was just coming into the Chamber.

Madam President, this debate is a whole lot about the Bill, but flavoured by a whole lot of what is not in the Bill and quite understandably so. This debate centres around the understanding of the critical role that a licensing committee

plays in the landscape of Trinidad and Tobago. That landscape of course is spread across the understanding that the legislation, the Licensing Committees as introduced in 2014, by way of the amendments brought to the House and then to the Senate, that that involves a number of pieces of law which articulate into the Licensing Committees and which this Bill seeks to treat with, by validating the actions of the quasi-judicial and judicial functionalities that operated under the law.

Moneylenders are covered, pawnbrokers are covered, cinemas are covered, liquor licensing applications are covered. I would like to point out in grounding the argument as to constitutionality, that the test of constitutionality is really quite simple in any one of the umpteen cases that treat with constitutionality, they really boil down to three limbs.

One, there is a legitimate aim for the legislation; two, the measures that the Bill prescribes are rationally connected to that legitimate aim and three, that the method of solution goes no further than it ought to, in a society that respects democracy in the manner in which Trinidad and Tobago prides itself. That is really quite simple. Be it Northern Construction, be it Francis, Oakes, De Freitas, any one of the umpteen cases, Maraj, et cetera, that treat with what both the Privy Council and the Court of Appeal have settled as the law in relation to constitutionality.

That, of course, is re-enforced by an understanding of section 13(2) of the Constitution. Section 13(2) says you may abrogate section 4 and section 5 rights, and yes, this Bill treats with section 4 and section 5 rights in terms of due process, in terms of rule of law, in terms of a number of the aspects, equality of treatment. All of these things find themselves together with the general rule that one ought not, as a Legislature, to interfere in the separation of powers doctrine. So those two put together, bear the need when we come to providing an indemnity, an immunity

from prosecution as we see in clause 7, we see the need for section 4 and 5 rights and separation of powers, constitutional rights, to be considered in the context of section 13(2) of the Constitution. Section 13(2) of the Constitution says you can traverse rights that are set out in 4 and 5—and I add now the larger doctrine of separation of powers—by passing the law, firstly with a three-fifths majority, if that is the rule of entrenchment. It may be different if you get to section 54 of the Constitution, which can talk about three-quarters majority or two-thirds majority. You can do it if you have three-fifths of the support of the House that is passing it, and if it is respected in a society such as Trinidad and Tobago, which has regard for the rule of law that we do and the democracy that we do, and that is where the proportionality argument comes in, in the three limbs.

So we have heard Sen. Mark and Sen. Mahabir both speak to issues of constitutionality potentially being treated in this debate, they are correct. There are issues of constitutionality being treated, Sen. Vieira has in like fashion also treated with that and he has pinpointed it in the body of the clause that causes him the most concern, which is clause 7 of the Bill.

Is there a legitimate aim? Yes. What is the legitimate aim? Number one as Sen. Vieira mentioned, the magistrates protection legislation is not 100 per cent in cover. We recently amended the magistrates protection by an Act of Parliament which this Senate passed and the House passed and what we did was to broaden the level of protection, but there was not 100 per cent protection given.

Back then, as Attorney General, I gave an undertaking to come back to the issue after we had finished the divisioning of courts exercise. As hon. Members that have served in this House together with me in this particular session are aware, all undertakings are met by this Government. We have given undertakings, indeed

when Sen. Ramdeen contributed in the manner that he did, we gave several undertakings and he was witness to the fact that we came back to many of them.

So number one, the magistrates do not have protection of the type that is required. Number two, we heard Sen. Mahabir—and I congratulate him, it is the first time I have heard him speak in this House. Sen. Mahabir raised quite an interesting point. Sen. Mahabir, in talking about the separation of powers argument, said—he is quite correct, the hon. Senator—that there should be a loath approach, a reluctance for the Legislature to involve itself in the acts of the Judiciary.

And the hon. Senator quoted from some constitutional law that spoke to those aspects but respectfully, the argument is to be distinguished by the fact that the precedent that the hon. Senator was referring to, the textbook that the hon. Senator was referring to, was where the Parliament involves itself in acts of the Judiciary, in a particular circumstance which is not this.

It is true that this Bill seeks to treat with an involvement in judicial function, decisions taken by the judges, but it is absolutely true that we cannot forget the real facts. It was the Executive of the Republic of Trinidad and Tobago, the sitting Government of Trinidad and Tobago, the United National Congress, Kamla Persad-Bissessar-led Government, that proclaimed the law to operationalize the 2014 amendments.

So an Executive act, a Government's act, and let me make it abundantly clear, it has nothing to do with the fact that the law was passed by everybody, that is the Parliament passing law. You operationalize law, you ascent to law, you proclaim law only by act of the Cabinet of the Republic of Trinidad and Tobago. It is considered on two occasions, as a matter of fact: A note is taken with respect to

proclamation or the invocation of ascent, that note is considered one week and then another week later they confirm the Act that the Cabinet is being asked to consider, unless the Cabinet approves and confirms on the same day.

So the only entity that could possibly proclaim the law was the United National Congress, which makes somewhat of a mockery the arguments put forward by Sen. Haynes, in her complaint about us validating for ourselves; no. We are validating to fix an insane Act of a sitting Government. What is insane about it, you are proclaiming law on a structure that does not exist.

So, coming to the point of constitutionality raised by Sen. Mahabir, the distinction to the Senator's argument is to be found in the fact the Parliament is proper to involve itself in an act of validation because we are fixing something that the Executive foisted upon the Judiciary.

**5.10 p.m.**

No magistrate, and no judge, and no Licensing Committee foisted that law unto themselves. Anand Ramlogan as Attorney General sitting then as the advisor to the Cabinet, Mrs. Persad-Bissessar, the Leader of the Opposition sitting as Senior Counsel in that Cabinet, they foisted the law upon the Judiciary, in this case the Magistracy, and the Clerks of the Peace. So, Sen. Vieira asked the pellucid questions, well, what are the options available to us, and I am still on the legitimate aim, because now my legitimate aim can be summarized to the point, we are protecting the Magistracy and the Clerks of the Peace, and the Licensing Committees from that which a government foisted upon them without choice.

Nobody else proclaimed the law. Nobody else caused sitting magistrates to consider thousands of matters. So legitimate aim number one: We are protecting the magistrates from a recalcitrant Government then sitting. I am being

straightforward now, and I am not going to pull punches because punches were not pulled in this debate. [*Desk thumping*] Legitimate aim number one.

Legitimate aim number two: hon. Senators are well aware that the Laws of the Republic of Trinidad and Tobago include the Exchequer and Audit Act, the Constitution. The Auditor General is the creature at law that must decide whether the collection of revenue and non-revenue, because you have intrust moneys, you have fees and you have revenue. Intrust moneys means money that is not yours. For instance, a collection in court for maintenance payments that are paid into court that does not belong to the court; it belongs to the person for whose benefit it is paid. That is intrust money. Non-revenue money is revenue of the type which is fines and penalties when you are brought to court and told pay a \$5,000 fine, you have a penalty to pay, that is non-revenue money that is collected by way of fines. And the third specie of money that is collected is of course, fees, revenue money, taxation, et cetera.

But hon. Senators, the second legitimate aim of this law is to make sure that the Auditor General can certify the moneys that were paid to the Magistracy, the Licensing Committees, for the entire time that the court sat via a magistrate to do something which they could not do. Because the 2014 law came in, fines and fees were accepted by a UNC Government proclaiming law that they should never have proclaimed, and therefore, to solve the collection of revenue for thousands of matters, obviously we cannot put the taxpayers of the Republic of Trinidad and Tobago into the jeopardy of them saying, “Gimmeh back meh money”, to put it quite boldly. Because, there would be nothing wrong with the person who had an expired licence coming forward with an insane argument to test in the court to say, “I had meh licence but you should never have accepted my money”. And this is

Trinidad and Tobago, you know, ladies and gentlemen, hon. Senators all. This is Trinidad and Tobago. I put no argument past those who have time to waste.

For instance, we have people in the public domain claiming that a Privy Council decision on a basic point of leave to proceed with judicial review is landmark law. Trite law. And when we look at the collection of revenue under this law, the Auditor General is going to have a serious problem on the Auditor General's hands, and I have heard hon. Senators—You know, Sen. Haynes amazes me at times, “We need the numbers, we need the statistics, we need the data”. I gave hon. Senators data demonstrating close to 14,000 matters on the liquor licensing side alone, and the liquor licences are not annual licences, you know. There are 12 types of licences: Occasional licences, spirit dealers' licences, grocers' licences, yearly licences. They are all special licences. There are multiple forms of licences, but I say that I am amazed by Sen. Haynes because it matters not if there were 14,000 or one. The Auditor General cannot have an easy ride in trying to figure out the collection of revenue. Why? Because it was ultra vires. It was unlawful. You were collecting people's money on the back of a law that did not exist, because it was repealed, and the judicial function of having collected that money now puts the entire process into odium. And then we hear Sen. Haynes tell us about we are correcting things for us in that self-serving—no, we are correcting things for you. For you.

**Sen. Haynes:** Four years later.

**Hon. F. Al-Rawi:** Four years later, very good point. Let us deal with that. This Bill is Bill No. 2 of 2018, in case you did not notice. No. 2 of 2018. To cause the population of the committees we had to make sure—*[Device goes off]*—sometimes my contributions are so good that I have backup music, Madam President.

[*Laughter*] But to cause the population of these committees we had to engage the Judiciary, the Chambers of Commerce, the relevant authorities to populate them. At the same time there is another argument that is afoot. It is true that the 2014 law and the use of the committees, may have been a good idea, but perhaps not the best idea, and a lot of us had a lot to say about that. How it could be improved.

I agree with Sen. Vieira and I compliment him openly. I agree with the fulminations of Sen. Mahabir on some of the positions that he has brought forward. I agree that we really ought to have a functioning aspect that can really do the job. Sen. Mahabir raised the point truthfully that the quorum for committees was hard to obtain. Why? Because the Clerks of the Peace are in a state of disarray, the Chambers of Commerce needed to apply for alternatives and—alternates, forgive me—principals. There needed be a population. It took our Cabinet three attempts to install these committees.

[MR. VICE-PRESIDENT *in the Chair*]

Because we had to go through the process of consultation to get the names, get the nominees, have non-objections, have the Chief Justice do the appointments, change out the Clerks of the Peace because they rotate every 21 days. A Clerk of the Peace is rotated every 21 days, and therefore if you name Clerk X, 21 days later you have to name Clerk Y. But, we could not go to the level that we have been invited to go because we were engaged in a by far more serious exercise, and I do not mean that disrespectfully.

This country is crying out for criminal justice reform. Criminality is one of the number—is the number one issue in this country next to the economy. People feel that crime is runaway. They ask what is going on in the prisons. We had public sentiment in Trinidad and Tobago for escaped prisoners that members of the

public were saying, “Eh, is okay, dem fellas good to escape because they want their trial”. Somebody on a charge for murder is receiving the public’s sentiment of support, because, poor fella, he needs a trial. Well, you know, I understand that, because you do need a trial. But what is critical in our arena is to understand what makes a trial happen. We keep getting recommendations as anchored in this Bill in the operationalization of the committees in terms of its purpose. We keep getting recommendations on the criminal justice system which tell us effectively, “Change that tyre. Gimme a new tyre”.

Let me draw the analogy. To have a committee sit, to have a court sit, to have a criminal court sit, it is not only the court that causes the trial to happen. You need a judge, you need a prosecutor, you need a defender, you need a witness, you need the evidence, you need the rules of court, you need to have the transportation system working to move them forward, you need to have medical experts, you need to have ancillary witness support protection. There are multiple pieces to that arena moving ahead. And when the Government on the backdrop of the issues surrounding the 2014 Licensing Committee understands that, look, these committees really need to work better, surely hon. Senators can take, in this case not judicial notice, but legislative notice, that we have come to this Parliament and we have implemented criminal proceedings rules. We have introduced a 77 per cent increase in judicial capacity. We have birthed a public defenders system which should come live in a month or two. We have introduced computerization in the courts. We have introduced a Criminal Division, a Family Division, opened Children Courts, done the regulations for all of these entities.

**Sen. Baptiste-Primus:** Criminal responsibility.

**Hon. F. Al-Rawi:** Criminal responsibility. We have dealt with plea bargaining,

maximum sentence indicators, judge only trials. We have dealt with white collar as a mechanism to treat with that. All of these things are not textbook, hon. Senators. They are in operation now.

First plea bargaining case under the legislation, done. First and second judge only trial, one for murder, one for money laundering, done. Two Children Courts to deal with crimes relating to children, done. Criminal Procedure Rules introduced since 2016, 400 maximum sentence indication (MSI) Goodyear principles hearing done in one month, in August last year alone. Does that sound to hon. Senators as if there is not an anxious scrutiny of the system or an anxious intent to operationalize the system? Far be it from the case.

The introduction of the Magistracy computerization formula. We took what was introduced in the Family and Children Court which the honourable Chief Justice himself obtained from the Government of Nigeria, practically for free. Then the Government of Spain bettered the software. We put in an entire computerization schedule for the Family and Children Division, for the Children Courts, and we replicated it in the Magistrates' Court. So that we actually no longer have a clerk sitting down with a longhand book, "writin till de pen break and de finger get cramp", and calling your name staccato, go down the call of the corridor where you say, "John Brown"! And you hear the echo, "John Brown, John Brown, John Brown, John Brown, John Brown"! By the time the name reaches down the corridor, John Brown's name changes to Jane X. [*Laughter*] Those of us that have actually been there understand the truth of what I am saying. But the point is, having rules of court, attendances at time, processes going, all fit in with this law. Why? Because when we launch, next month, in June, the computerization and electronic payments in the Registrar General's division, so that rat infestations do

not hold sway over your need to attend, as happened, because an outgoing Government left a building which was less than adequate, and a new incoming Government is outfitting new premises as we speak, the electronic payments make a difference because 100,000 cases from the motor vehicle and road traffic court come out of the system which leaves more room for the committees to operate, for alternative dispute resolution to go to work.

More importantly, Mr. Vice-President, the Cabinet of the Republic of Trinidad and Tobago last week gave the final approval for the radical transformation of the operability of the magistrates and Masters, the criminal Masters. Why? The civil system began to work because we have put in Civil Proceedings Rules, but we gave judges computerization and judicial support officers, judicial research assistants, and teams to work with each judge. We have approved hundreds of positions just last week, 214, 178, 81, 61 positions so that every magistrate, every criminal Master obtain a team of five; judicial research assistants, judicial support officers, et cetera. In other words then, we are operationalizing the same Criminal Division and Traffic District Courts that we birthed—this Senate birthed in this Session of the Parliament. This 11<sup>th</sup> Session of the Republican Parliament is the time when we did this. So, gone are the days where you pass a law in 2011 and you just do not proclaim it. Like DNA for instance, if you recall. The DNA law was passed in 2011. It was only under this Government that the DNA law and the Regulations were put into effect.

So, legitimate aim is being serviced by the operationalization, but most respectfully, we could not take the invitation to change the tyre on the car at this point until we had a chassis, an engine, a steering wheel, some gas and some mechanics working. We had to get the thing moving. So, I want to thank Sen.

Rambharat in particular for really taking care of the rational connection as it applies to clauses 4, 5, 6 and 7. The Bill is very specific. The language is rather terse, and it is true in clauses 4, 5, 6 and 7, there is one constant thread that says:

“...would have been lawful and valid had the Act not come into force.”

So let us look at clause 7:

“Notwithstanding any law to the contrary, no legal proceedings or”—any—  
“other action of any kind shall be commenced or continued against a person in respect, or in consequence, of an act, decision, omission or proceeding of a licensing committee done, taken, made or conducted during the specified period, if such act, decision, omission, or proceeding would have been lawful and valid had the Act not come into force.”

[MADAM PRESIDENT *in the Chair*]

That formula of language, terse as it is, is what the Government put in, what the CPC's department put in to make sure that there was no blanket immunity. To make sure that people were not excluded out of claims which they would otherwise have had for unlawful acts or invalid acts under the law which we are saving. So, that is why—and I wish to thank Sen. Vieira for giving way on so many occasions, as he did, to allow me to put that point onto the record, because my learned friend Sen. Vieira is a powerfully convincing advocate. And when Sen. Vieira says something in this Senate, I listen well, and we all on this Government side listen well. I am sure all of us do. Even though this is one of the rare occasions where Sen. Vieira and I do not agree, because I am minded to accept the terse. You know what, this is Trinidad and Tobago, this is a place where the law is evolving constantly because of the nature of our society. Let us take the merit of the argument, and we respectfully believe, agreeing to disagree, but then agreeing that

Sen. Vieira's way should be had, we propose an amendment to clause 7, which is to allow out of an abundance of caution, we will put 7 the way it is, we will make it 7 subclause (1). And then we propose to add in a subclause (2) and a subclause (3). The subclause (2) will say effectively:

“Nothing in subsection (1) shall affect the right of any person to any legal remedy which he would have had in relation to any act, decision, omission or proceeding of a licensing committee, if the Act had not come into force.”

And then we propose a subsection (3), which says:

“Notwithstanding any law to the contrary, a legal remedy referred to in subsection (2) may be obtained in the same manner that it could have been obtained had the Act not come into force.”

In other words then, let us not rely upon the terse tight description of the caveat to clauses 4, 5, 6 and 7, let us expand it. Perhaps Sen. Vieira is having a positive influence on a topic that I know he is very passionate about. Sen. Vieira, if I may be bold, Madam President, is the king advocate for plain English, plain and ordinary meaning, simple legislative speak. It is where other jurisdictions have gone, the United Kingdom, Canada, a number of jurisdictions rely upon that.

We in our colonial ways have been hard to let go of Latin, *ex proprio motu*, of mutatis mutandis. We have been loath to let go of our Latin and complex language description, and I think the law is slowly beginning to warm into that, so perhaps this is the opening of a door on that effect. I will confess to you that the learned senior counsel that occupies the chair of the Chief Parliamentary Counsel, in his very gentle demeanour, Mr. Macintyre SC, is quite insistent, as is Mrs. Ida Eversley, that we ought not to breach the hallowed principles and celebrated

principles of legislative drafting. Sen. Thompson-Ahye is witness to the battle we have on the passive and active voice issues, and the singular and plural issues, as was Sen. Elton Prescott who was the ubiquitous spotter of the ubiquitous element, which is the semicolon or colon, all of which make deep and simple impact upon laws as they are construed.

So, hon Senators, I thought this Bill was a fairly simple Bill. It touches a nerve which reveals a desire for better. I hopefully have put before the hon. Senators, an explanation as to why we could not come deeper into the 2014 law. I would like respectfully on behalf of the Government to allow us the opportunity to treat with the deeper reforms. Those deeper reforms are important. We have taken careful note. As we operationalize the Magistracy, Registrar and Clerk of the Peace, because you are aware that in the criminal division we abolished the Clerk of the Peace. That post should be filled by the end of the month. Advertisements are out in the Judiciary. And then we will have for the first time in the history of the Republic of Trinidad and Tobago, and in the history of Trinidad and Tobago if you go back to the colonial roots, it is the first time we will actually have lawyers qualified at the Bar sitting as the Registrar and Clerk of the Peace of the court because we have been turning a collective blind eye to a breach of the Legal Profession Act, where Clerks of the Peace who are not attorneys-at-law breach the law every day in rendering legal advice in relation to warrants, summonses, et cetera, and that is not something that one can tolerate without solution. We have brought the solution for that.

We believe that the proposed amendments to clause 7, which I would ask to be circulated now, will take us to a zone of safety in having an express statement of the caveats which we believe were tersely stated in the qualifying elements of

clauses 4, 5, 6 and 7. We do believe that this is a legitimate aim. I will be frank, as I wind to a conclusion.

**Sen. Mark:** Before you wind, Sir. Madam President, through you, I would like to ask the distinguished Attorney General whether the Government would be inclined, through the Leader of Government Business, to look at us proposing to the Senate Standing Orders Committee, the insertion of a provision that would avoid this situation from occurring in the future, regardless of the government in office, the establishment of a post scrutiny legislative committee? Now, we cannot do it on the floor—

**Madam President:** And we should not be—

**Hon. Senator:** That is House Committee business.

**Hon. F. Al-Rawi:** I thank the hon. Senator. It is a point, Madam President, that was raised in the debate, I think it was, forgive me, I cannot remember whom, I believe it was on the Opposition bench that said, “We need to find a mechanism to avoid this circumstance”. Quite frankly there is a mechanism. It is called the Government of the Republic of Trinidad and Tobago otherwise known as the Executive. And yes, these kinds of examples cost the taxpayers millions of dollars. I will give you three examples: The proclamation of the child rehabilitation centres done by Attorney General Anand Ramlogan. That was proclaimed into law that said every child who is in conflict with the law and who is to be remanded has to go to a child rehabilitation centre. That was the law. They proclaimed the law. There were no child rehabilitation centres.

Interestingly enough, persons went before the courts and sued the Government. Actually, whilst I was being sworn in as Attorney General on the 9<sup>th</sup> of September, 2015, I had to step aside and take a call from the Solicitor General’s

department to tell me that they were in court on a claim that there was a breach of the law because there were no child rehabilitation centres. Guess who the lawyer was, acting for the claimant in court? Anand Ramlogan himself was before the court, suing the State for a failure to have a child rehabilitation centre when the UNC Government proclaimed the law with no child rehabilitation centres. The State paid millions of dollars in damages and in accommodation expenses for children. Millions of dollars.

Example number two: This law, this law was proclaimed by Mrs. Persad-Bissessar's Cabinet, a UNC Cabinet. We have now exposed the taxpayers to the Auditor General asking a question, "Well, wah yuh go do bout all ah dat money yuh collected illegally"? We are now exposing the Magistracy, as Sen. Vieira quite capably demonstrated, to legal challenge. Are we going to rely on the doctrine of necessity? Are we going to rely on *omnia praesumuntur*? Are we going to rely on other maxims of law? Are we going to let the thousands of applicants come forward? It would be untidy, and that is why we recommend the validation in simple form, and that is why we also recommend the ex post facto application; the retroactivity. And by the way, there is nothing wrong with retroactivity if it is done in a particular way. The leading case in the root origin of the Privy Council's decision is *Liyanage*. It is a case out of Belize, and in that dicta, we have clearly set out the fact that ex post facto, non-ad hominem legislation done in the right circumstances is perfectly permissible, as does *Bennion on Statutory Interpretation*, Francis Bennion, Fifth Edition, not the Sixth as Sen. Vieira had pointed out, but they go on in the further examples to say that it is entirely appropriate to do so.

So that was example number two. And, of course, example number three is

to be found in no less a feature than section 34. Section 34 was proclaimed and proclaimed solely by a UNC Cabinet, and a very useful logjam dynamite provision which is section 34, which Sen. Vieira and I both sat in that Parliament and passed. I as Opposition Member, Sen. Vieira on the Independent Bench. Everybody agreed section 34 was a good provision. But three undertakings were given: Make sure you have Masters of the court, make sure you have rules of the court, and make sure that you have courts. Of course, that only came to life when this Government came into effect, which is why the State paid millions of dollars in legal fees, which have cascaded into years of delay on the back of section 34. So, I am giving Sen. Mark in answer to his enquiry, three live examples of how millions of dollars of taxpaying dollars can be wasted by way of the abuse. But the mechanism that exists is really a Cabinet doing its job.

**Sen. Thompson-Ahye:** There is another way. When the Children Act was being reformed, if I may, Madam President, I was on sabbatical at the time and I wrote a series of articles in the *Trinidad Express*. One of the recommendations I made was for an implementation schedule along the line of the Children (Scotland) Act. Had they put the implementation schedule and deferred that section dealing with—and that would not have happened, the rehabilitation centre. But free legal advice was not appreciated.

**Hon. F. Al-Rawi:** Thank you, hon. Senator. I think the hon. Senator would be warm to know that under this Attorney General we do everything by way of an implementation schedule. Everything. Literally everything.

So, it is working in the current state. Sen. Mark may be on to a good idea. I am not quite sure if the Parliament really ought to involve itself in the legislative, sorry, the Executive functionality of what an Attorney General should be doing.

An Attorney General should be proclaiming law in consultation with others, without breaching the rules of anticipation. We will hear about that in a Bill that has just come from the House to cause an amendment to the preliminary enquiries abolition laws, and I will explain that in a different debate. But what I am saying is, that may be an option. I am not warmed to the idea, because really, only a government can speak to its operationalization. And a government is held accountable for it. I mean, I am sure that the last Government was held accountable for section 34. Whether it will go far enough in today's modern world of what has happened in Europe and elsewhere in the world in terms of xenophobia and polarity demonstrating itself to be real, is a different question.

**Madam President:** Attorney General, you have five more minutes.

**Hon. F. Al-Rawi:** Much obliged, Ma'am. So, Madam President, I humbly recommend this law. It is open to the hon. Members to cause this Bill to fail. If the hon. Members do not vote for this law, it is an entitlement, there will be no aspersion to anybody's character. As the purveyor of the legislation, having demonstrated, I hope, as succinctly as I could, the legitimate aims that reside in this legislation, having listened to the exhortations of my learned colleague, Sen. Vieira, as to a manner in which we could improve the terse language which relied—

**Sen. Vieira:** Thank you, AG, and may I just say I have read the amendment and it satisfies all my concerns.

**Hon. F. Al-Rawi:** Much obliged. Thank you, hon. Senator. So, hon. Senators, I commend this Bill for your consideration. I urge your support. I can have no fault if you do not. At the end of the day it will be the best effort that we can bring to this Parliament in the circumstances that we have, and I beg to move. [*Desk*

*thumping]*

**5.40 p.m.**

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Madam Chairman:** Hon. Senators, I remind everyone that there are eight clauses and a Preamble in this Bill. Attorney General, are you ready?

**Mr. Al-Rawi:** Yes, Ma'am.

*Clauses 1 to 6 ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed:* That clause 7 stand part of the Bill.

A. Renumber clause 7 as clause 7(1).

B. Delete the words "Notwithstanding any law to the contrary" and substitute the words "Subject to subsection (2)".

C. Insert after subclause (1) as renumbered, the following subclauses:

“(2) Nothing in subsection (1) shall affect the right of any person to any legal remedy which he would have had in relation to any act, decision, omission or processing of a licensing committee, if the Act had not come into force.

(3) Notwithstanding any law to the contrary, a legal remedy referred to in subsection (2) may be obtained in the same manner that it could have been obtained had the Act not come into force”.

**Madam Chairman:** Hon. Senators, we have the proposed amendment circulated on behalf of the Attorney General. Attorney General.

**Mr. Al-Rawi:** Madam Chair, we took note of the recommendations coming from the hon. Senators led by Sen. Vieira and we recognized that there is merit in enlarging the caveat language. In those circumstances, we propose that clause 7 be amended in the manner circulated to make it expressly clear that we are preserving all the rights of litigant in all forms and fashions to challenge the things which they ought to challenge, or considered that they ought to challenge. This will have the effect of, I think making proportional any allegation as to an intrusion into the separation of powers and would definitely preserve rights in an expressly larger fashion than the language which was previously circulated to clause 7 at the second part.

**Madam Chairman:** Members?

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Clause 8.*

*Question proposed:* That clause 8 stand part of the Bill

**Sen. Mahabir:** Madam Chair.

**Madam Chairman:** Yes.

**Sen. Mahabir:** With respect to clause 8, I am reading this clause: that:

“...proceedings commenced during the specified period...which would have been lawfully and validly commenced if the Act not come into force, may be continued and dealt with under the Liquor Licences Act...”

My reading of this, the word “may”, it suggests to me that the continuation of proceedings that had happened in the specified period, it is not automatic. That word “may”, who is to determine which actions should continue, and what are the conditions that would determine what actions should continue? My feeling is the word “may” should be replaced with “shall”.

**Madam Chairman:** Any other questions or comments?

**Sen. Thompson-Ahye:** The word—

**Sen. Ameen:** Put on the mike.

**Madam Chairman:** Sen. Thompson-Ahye.

**Sen. Thompson-Ahye:** The word—sorry, sorry the mike is on right?

“...commence if the Act”—had—“not come into force.”

There is a word missing there.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** On the easier of correct points, I thank Sen. Thompson-Ahye for policing the language of this clause. She is perfectly correct. The word “had” has been inadvertently omitted from the fourth line, just after the word “Act” and before the word “not”. The word “had” should be inserted.

And in relation to the enquiry from Sen. Mahabir, if I could just perhaps shed some light on it?

“Any proceedings commenced during the specified period...”

—and the specified period is the date which it was repealed to the date that we proclaim this amending validation Act. Right?

“...pursuant to the Liquor Licences Act, which would be have lawfully and validly commenced if the Act had not come into force, may be continued and dealt with under the Liquor Licences Act...”

It is specifically to take care of that grey zone of the committees already having come into effect. Because what happened is the magistrates have now stopped performing the function unlawfully, and the licensing committees are now in fact in operation, but there are some legacy matters which certain magistrates have held over and that is really because of the closure of some courts after the earthquake lists being deferred, et cetera. So what we allowed was the continuation of matters

which were already in train. So we took care of the two circumstances because permutations and combinations have to be factored.

So clause 8 in the use of the word “may”, the hon. Senator is correct. Somebody has to decide. In this instance, it will be the court to decide. So if you are before a magistrate on an existing matter that is not yet concluded, the magistrate may say, look, in the interest of justice and so that you do not have to reconvene under a new committee and start all over again, we will just finish it under the law provided it was something caught in the specified period and that is calculable by way of reference of the matter. Similarly, it may be that you wish to take it over under the new law because you are not as far gone as you were under the old law. So I hope that that lends some clarity to your enquiry.

**Sen. Mahabir:** I am attempting to understand. It is just my reading of this by the use of the word “may”, I get the feeling that you are trying to box in or you are trying to clamp down on the matters that are presently before the court.

**Mr. Al-Rawi:** Not really. If we had said “shall” then we will be boxing in. If we said “shall”, it means that everything that was in train would not have the option to come under this law. If we say “may” you have the discretion in the interest of justice as the Clerk of the Peace or the magistrate may decide to go in whichever way was apposite to savings and efficiency.

**Madam Chairman:** Sen. Ameen.

**Sen. Ameen:** Madam Chairman, through you to the Attorney General. In a practical sense I feel that there will be a time period between the passing of this Bill, when it is proclaimed and it is in fact enacted—put into action by the court. In my view, there will be sufficient time for the winding-up of the existing matters under the old practice of the magistrates. My concern is that—while I feel there will be sufficient time to wind up the existing matters, my concern is that after, in

addition to the new matters, the new ones, because of the “may” be in there it does not necessarily mean that they will be treated accordingly. So will I understand you choose to use the word “may” to give space for those matters already in train, at the end of those matters the “may” still remains, and there still will be a discretion which I feel should not be there. So I am just endorsing my colleague’s point but just from a different prospective and suggesting to you there will be enough time to wrap up those matters that are already in train.

**Madam Chairman:** Attorney General, just one second. Sen. Vieira.

**Sen. Vieira:** Thank you, Chair. I understand the point, but if I may, from *Thornton’s Legislative Drafting*, we are looking at the difference between a power and a duty. So the distinction between a power and a duty appears to be straightforward and clear cut.

A power implies a measure of discretion. The holder of the authority is authorized or permitted to exercise it but need not do so. The authority is classified as permissive and therefore power. The word “may” should invariably be used to confer a power. If the holder of the authority is obliged to exercise it and some act must be performed, the authority is classified as obligatory and therefore a duty. A duty may be expressed either as a particular role or as a standard. It may be expressed positively or negatively. The words “shall” and “must” are commonly used to impose a duty.

Now, in light of that I think that this is meant to be a discretion and not a duty. So I think “may” is the correct word.

**5.55 p.m.**

**Mr. Al-Rawi:** Correct. May I?

**Madam Chairman:** Yes.

**Mr. Al-Rawi:** Thanks, Sen. Vieira, for going literarily to the source of authority.

I thank you. It is properly to preserve a discretion, because it is the Presiding Officer, be it the Clerk of the Peace in the Licensing Committee structure which is up and running now or the magistrate. And just to point out that this law has no proclamation clause. This law comes into effect on assent. The assent is done by way of the legal report from the Attorney General. I just signed one, a minute ago, it was done almost the day after.

So, the Solicitor General prepares the assent, we then write to Her Excellency the President and what can happen is that this can become law in a matter of days which is the intention. Because we are certainly not able to contemplate all the permutations and combinations of thousands of matters. It would be imprudent of us to use the word “shall”, because it is properly rooted in a power and that power ought to be discretionary. If we were to use “shall” we may unwittingly be inviting the court to determine that we are breaching the separation of powers principle by directing the court to comply with only one root, that is the old law; “may” allows for the discretion to act on the power root basis. So in all the circumstances we are confident that “may” is the correct expression.

**Madam Chairman:** Hon. Senators, the question is that clause 8 be amended as follows, in the fourth line to insert the word “had” after the word “Act” and before the word “not”.

**Sen. Dillon-Remy:** Madam President, was there not at the last line under the Liquor Licences Act, the fifth line,—as if it had not come into force?

**Mr. Al-Rawi:** “...as if it had...”

**Madam Chairman:** We dealt with it, Senator.

**Sen. Dillon-Remy:** You dealt with it?

**Madam Chairman:** Yes. The “had” comes under the fourth line, not the penultimate line, the second to last line.

**Sen. Dillon-Remy:** The fourth line. Okay.

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Preamble approved.*

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

*Senate resumed.*

**Madam President:** Attorney General.

**Hon. Al-Rawi:** Madam President, I wish to report that a Bill entitled an Act to validate the constitution of licensing committees established under section 5 of the Liquor Licences Act, Chap. 84:10 as well as the grant, transfer and renewal of licences and all other acts and omissions by licensing committees and for related matters, was considered in committee of the whole and approved with amendments. I now beg to move that this Senate agree with the committee's report.

*Question put and agreed to.*

*Bill reported, with amendment.*

*Question put:* That the Bill be now read a third time.

**Madam President:** As you know, this Bill requires a special majority so the Clerk will conduct a division.

*The Senate voted: Ayes 27*

AYES

Khan, Hon. F.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Division (cont'd)

Moses, Hon. D.

West, Hon. A.

Singh, A.

Cummings, F.

Le Hunte, Hon. R.

Henry, Dr. L.

De Freitas, N.

Dookie, D

Simonette, G.

Young, N.

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Obika, T.

Mahabir, A.

Richards, P.

Vieira, A.

Deyalsingh, Dr. V.

Deonarine, Ms. A.

Teemal, D.

Thompson-Ahye, Mrs. H.

Dillon-Remy, Dr. M.

Mutota, Mrs. F.

*Question agreed to.*

*Bill accordingly read the third time and passed. [Desk thumping]*

**ADJOURNMENT**

**UNREVISED**

Adjournment

2019.05.21

Sen. The Hon. F. Khan (cont'd)

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. Madam President, I beg to move that this Senate do now adjourn to Tuesday, the 28<sup>th</sup> of May, 2019 at 1.30 p.m. in the afternoon, obviously, and that will be Private Members' Day and we will be continuing the debate on the Elections and Boundaries Commission matter.

**Madam President:** Hon. Senators, before I put the question on the adjournment, leave has been granted for one matter to be raised. Sen. Mark.

### **NCB Global Finance**

#### **(UDeCOTT Borrowings)**

**Sen. Wade Mark:** [*Desk thumping*] Thank you, Madam President. Madam President, the population of Trinidad and Tobago is demanding of the Government to provide with reasons for authorizing the Urban Development Company of Trinidad and Tobago borrowing some \$180 million from NCB Global Finance.

Madam President, something very curious happened in this country. In the *Trinidad and Tobago Gazette*, dated the 22<sup>nd</sup> of November, 2018, there is a section of that *Gazette* that speaks to the reassignment of responsibility to the Prime Minister, and I want to quote what this says. It says:

“It is hereby notified for general information that Her Excellency the President, acting in accordance with the advice of the Prime Minister, under the provisions of section 79(1) of the Constitution of the Republic of”—T&T—“has assigned to Dr. The Honourable Keith Rowley, M.P., the Prime Minister, the responsibility for the administration of the Urban Development Corporation of Trinidad and Tobago...(UDeCOTT) with effect from 14<sup>th</sup> November,2018.

G. SERRETTE

Secretary to Her Excellency  
the President”

**UNREVISED**

Madam President, this reassignment which was under the control of the Ministry of Housing and Urban Development for eight or thereabout years, mysteriously found its way under the Office of the Prime Minister. And, Madam President, you know what is even more curious—

**Sen. Khan:** He has the authority.

**Sen. W. Mark:** I know he has authority, I know he has authority, I am not querying that. That is why I read the authority here. So, Madam President, what happened is that this thing took place on the 14<sup>th</sup>. Curiously on the 15<sup>th</sup>, according to the Prime Minister himself answering a question in the other place, the loan for \$180 million was executed just accidentally and coincidentally on the 15<sup>th</sup> of November. So just 24 hours after the transference of UDeCOTT to the Prime Minister's office this loan was executed. Do you know on whose behalf? It was executed on behalf of UDeCOTT, but the company, the mortgage finance company or the finance company that executed that loan was known as NCB Global Finance. This is a foreign registered company in Trinidad and Tobago owned by a fella called Michael Lee-Chin, a Jamaican who lives in Canada but born in Jamaica.

Madam President, I want to bring to your attention some very curious developments that have taken place in our country. And that is why I think the public is demanding from this Government, why did the Government go to NCB Global Finance and not to the Republic Bank; not to First Citizens Bank; not to ANSA Merchant Bank; not to Royal Bank of Canada; but you know, Madam President, to NCB Global Finance. The Member of Parliament for Port of Spain North/St. Ann's West, his brother who put out a big statement in the *Newsday*, two days ago, saying that he is the brother of the Member for Parliament for Port of Spain North/St. Ann's, West is the managing director of NCB Global Finance.

And not only is he the managing director and CEO, he is also a director on the NCB Global Finance.

Madam President, I want to bring to your attention what happened with this company. This company that mysteriously in various incarnations came into existence under the name of NCB Global Finance in 2014. It started out with an asset base of \$115 million; that was at the 30<sup>th</sup> of September, 2014. By the end of September 30, 2015, it went to \$132.3 million; by the end of September 30, 2016, it jumped to \$218.8 million; by the end of September 2017, it went to \$350 million. This is a foreign company owned by a Jamaican. I have nothing against Jamaicans, but what is serious is that the brother of the Member of Parliament for Port of Spain North/St. Ann's West is the managing director and CEO of this company.

Madam President, the customer deposit base, according to the research that I have conducted, in 2014 stood at \$71.5 million. In 2015, we were still in office, it went to \$83.8 million. The "red and ready brigade" came into power in 2016, it jumped to \$160 million. Madam President, by 2017 it went to \$269 million as soon as the "red and ready brigade" arrived on the scene.

Madam President, you know what is interesting too, interesting? The capital injection for this NCB Global remains stagnant at 82.9 million, 2014, 2015, 2016, 2017. I want to give you the answer to the riddle. This Government used state institutions in order to bolster the financial asset base of this company called NCB Global Finance.

**Madam President:** Sen. Mark, please. What you are saying there contravenes the Standing Orders. You need, please, to withdraw that; you can make your presentation in another way but you cannot say what you have—

**Sen. W. Mark:** Madam President, what I am going to show, Madam President—

**Madam President:** You need to withdraw.

**Sen. W. Mark:** All right, I withdraw but I will deal with the state institutions and you will draw your own conclusion. But I will—all right, you know I have to go on the platform, good. I have no licence on the platform. [*Crosstalk*] Yes, I know, I know, I understand, I understand, but this will be said on the platform.

Madam President, let me tell you what went on here. There is something called the Home Mortgage Bank. You know what these fellas did with Home Mortgage Bank? Home Mortgage Bank had 33.8 million JMMB shares. JMMB was initially owned by Clico, but it was divested in 2011. You know who bought the bulk of those shares? Michael Lee-Chin—26 per cent of JMMB.

Madam President, Home Mortgage Bank is owned by the people of Trinidad and Tobago. I call on the Minister of Finance to tell this country who authorized him to hire NCB Global Finance to take our 33 million shares and sell it on the Jamaica Stock Exchange for \$46.9 million—

**Madam President:** You have one more minute, Sen. Mark.

**Sen. W. Mark:**—\$46.9 million. Madam President, you go to National Flour Mills, it is the same problem; they were able to lend National Flour Mills US \$10 million, this same NCB Global. They went to the National Insurance Board, they take \$35 million to invest in Guardian Life, the same Guardian Life that has now been taken over by a fella called Michael Lee-Chin out of Jamaica. Madam President, they went to a place called Trinidad Nitrogen Limited and they took almost \$100 million and deposit it where? On the account of NCB Global Finance.

Madam President, we want answers, we want answers from the Government of Trinidad and Tobago. We want to know and the people are demanding, what is the relationship between the Government of Trinidad and Tobago and NCB Global Finance? That is what we want to find out, Madam President. I thank you very much.

**The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):** Thank you, Madam President. Madam President, if what we just heard sounds like instant replay, it is because Sen. Mark just repeated almost word for word the comments he made in the debate last week which my colleague on the right adequately dealt with. It seems like Sen. Mark is determined to drag the name and reputation of a very reputable long-standing bank of the Caribbean through the mud in Trinidad and Tobago, all because the bank—one of the staff members of the bank is related to a Government Minister. That is completely reprehensible behaviour. It also appears that Sen. Mark is seeking to prescribe to this Government the modus operandi of other governments. [*Desk thumping*] When we issue contracts and enter into transactions we do that in a manner that is transparent and defensible. [*Desk thumping*] So let me give you the facts of what gave rise to this particular transaction between UDeCOTT and the NCB chain.

Madam President, in 2012, and I will repeat the date, 2012, when this Government was not in power, the then Cabinet agreed to the conclusion of a memorandum of understanding between the Ministry of Health and the Federal Ministry of Transport, Innovation and Technology of the Republic of Austria on industrial cooperation in the health sector and that the Minister of Foreign Affairs, then, was authorized to sign the MOU on behalf of the Government of the Republic of Trinidad and Tobago.

Pursuant to the signing of the MOU on June 29, 2012, the Ministry of Finance was provided with an offer from UniCredit Bank of Austria for the financing of 100 per cent of phase 2 of the design, construction and completion of the adaption of the Chancery Lane Office Complex as an extension of the San Fernando General Hospital in an amount of \$53,705,000 by making available: one, an export credit facility of up to euros 32 million on the basis of cover by the official Austrian

export credit agency and any other credit agency acceptable to UniCredit Bank of Austria AG; and two, a commercial credit facility of up to euros 20,805,000.

It should be noted that the commercial credit facility was required to finance the down payment, the value added tax and part of the local cost of the projects. In respect of this component of the financing, Cabinet in November 2012, determined that the amount of the equivalent of up to euros 20 million should be financed by a local financial institution. The then Cabinet in 2012 made that determination.

Further to the above, Cabinet by May 09, 2013 agreed that CIBC First Caribbean International Bank (Trinidad and Tobago) Limited should provide a one-year short-term government guarantee financing facility in the amount of \$180 million at a rate of 1.5 per cent for UDeCOTT. This was in effect a bridging loan to be converted to a longer-term financing arrangement. The bridging loan facility was initially due to mature on May 27, 2014; however, given continued undue delays in financing the long-term takeout of the short-term facility, the short-term facility with CIBC First Caribbean was extended eight times with the final extension ending in November 2018.

As the November 2018 maturity of the short-term facility approached, the Ministry of Finance recommended a long-term takeout be secured by the Ministry of Finance's request for proposal process, which would most likely secure the most competitive financing. So let me repeat, when we determined we wanted to replace the short-term financing with long-term financing we decided to do that through an open tender.

Accordingly, by Cabinet Minute 1457 of August 20, 2018 agreed, among other things, to the takeout of the existing short-term facility in the amount of \$180 million. Pursuant to this Cabinet decision and in consideration of the current GORTT Debt Maturity Profile a request for process for a fully underwritten \$180

million, 10-year fixed rate loan facility was issued to 10 domestic financial institutions on September 07, 2018. Those financial institutions were: ANSA Merchant Bank; Bank of Baroda, also a foreign entity; CIBC First Caribbean International Bank, also a foreign entity; Citicorp Merchant Bank; First Citizens Bank; JMMB Investments; NCB Global Finance; Republic Bank, the one that Sen. Mark mentioned; Scotiabank, Trinidad and Tobago; and the Trinidad and Tobago Unit Trust Corporation. These were all invited to submit proposals under the request for proposal process.

The financing options were comparatively assessed on the assumption of a 10 per cent discount factor utilized in the present value calculation in accordance with standing international practice for evaluating financial proposals. The proposals were also evaluated on the bases of effective interest rate, fee structure, total cost, internal rates of return and net present value of discounted cash flows. The final ranked evaluation relates the top three bids with the cheapest cost options. NCB GF was ranked and selected as the preferred bidder, having regard to all of those factors. Following the financial evaluation, the Ministry of Finance recommended to Cabinet that NCB GFL be awarded the mandate to arrange a 10-year fixed-rate loan facility in the amount of \$180 million to facilitate the repayment of the existing UDeCOTT short-term facility.

The Cabinet's agreement to the MOF recommendation was conveyed by Minute 1665 on September 27, 2018, and the award of the mandated letter guarantee was issued by the Ministry of Finance to NCB on October 05, 2018, and October 09, 2018, respectively. Subsequently, loan documentation between NCB and UDeCOTT was drafted and approved at the 227<sup>th</sup> meeting of the Board of Directors of UDeCOTT held on November 08, 2018. The loan agreement effected was executed between UDeCOTT and NCB on November 08, 2018, and the draft

guarantee has been forwarded to the Ministry of Finance for execution.

Madam President, the arrangement basis for this transaction was best efforts which essentially means that syndication of the loan was permitted and financial institutions could join in the loan as initial lenders or later as qualified lenders. Sagicor Life Inc joined in or contributed funding in an amount of \$25 million. NCB remains the arranger and agent for this financing. The facility was fully disbursed on November 16, 2018, and the short-term facility with CIBC—

**Madam President:** Minister, you one more minute.

**Sen. The Hon. A. West:** Thank you, Madam President—was fully repaid on November 23, 2018.

So, Madam President, there is nothing sinister or underhand about how this transaction was entered into or in choosing the person who extended the facility to the Government. It is a reflection of what I mentioned last week that a lot of the loan facilities that we had to go into arose out of transactions entered into by the previous Government which we have had to address and it was done in an open, fair and transparent manner, and NCB despite who its managing director was properly won the bid for this transaction.

So if we can ask the other side to stop maligning our citizens and our Caribbean neighbours in a manner that is completely irresponsible—Madam President, thank you very much. [*Crosstalk*]

**Madam President:** Sen Mark, can you withdraw what I just heard you say, please?

**Sen. Mark:** Yeah, I said that she has business in—

**Madam President:** Sen. Mark, no, I have asked you, please, to withdraw that statement.

**Sen. Mark:** Okay, I withdraw it. She knows what I am talking about. [*Crosstalk*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.24 p.m.*