

SENATE*Monday, June 29, 2020*

The Senate met at 10.00 a.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**KABIR ASSOCIATION OF TRINIDAD (INC'N) (AMDT.) BILL, 2019**

Bill to amend the Kabir Association of Trinidad (Incorporation) Ordinance, 1932, brought from the House of Representatives, read the first time.

Madam President: Hon. Senators, in accordance with Standing Order 62(1)(b), I beg to move that the next stage of the Bill be taken later in the proceedings.

Question put and agreed to.

PAPERS LAID

1. Annual Report of the First Citizens Bank Limited for the financial year ended September 30, 2019. [*The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Annual Report of Taurus Services Limited for the financial year ending September 30, 2019. [*Sen. The Hon. A. West*]
3. Response of the Trinidad and Tobago Police Service to the Twenty-Fifth Report of the Public Administration and Appropriations Committee on an Examination into the Development Programme for fiscal year 2018/2019 and follow-up on the Ministerial Response to the Sixth Report on the Tobago House of Assembly (THA). [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
4. Trade Marks Regulations, 2020. [*Sen. The Hon. C. Rambharat*]
5. Trade Marks (Border Enforcement Measures) Regulations, 2020. [*Sen. The Hon. C. Rambharat*]

UNREVISED

JOINT SELECT COMMITTEE REPORT**(Presentation)****National Statistical Institute of Trinidad and Tobago Bill, 2018**

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Third Interim Report of the Joint Select Committee appointed to consider and report on the National Statistical Institute of Trinidad and Tobago Bill, 2018, Fifth Session (2019/2020), Eleventh Parliament.

Madam President: Acting Leader of Government Business.

Sen. The Hon. C. Rambharat: Madam President, I have the honour to lay on the table the following papers as listed on the Order Paper in the names of the Minister of National Security and the Attorney General.

Madam President: No. The Minister of Rural Development and Local Government should have been presenting a report. Is there anyone who served on this Committee to commit to report on Human Rights, Equality and Diversity? Any Member is here? Then I will stand it down. All right.

URGENT QUESTIONS**Destruction of Homes due to Bad Weather****(Measures Taken to Assist Residents)**

Madam President: Sen. Mark.

Sen. Wade Mark: Thank you. Madam President, to the Minister of Rural Development and Local Government: Given the extremely bad weather which destroyed several homes along the East-West Corridor, can the Minister indicate what measures are being taken to directly assist the affected residents?

Madam President: Acting Leader of Government Business.

UNREVISED

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, as we all know, the Met Office had issued warnings relating to the weather system which was likely to affect the country on the weekend and just before 6.00 a.m. the weather system materialized across the country with heavy rains that started in south and in east Trinidad and made its way across Port of Spain by about—just before 7.00 a.m. Madam President, the Disaster Management Units across multiple corporations responded to several reports of fallen trees, branches and blown off roofs over the weekend as a result of the inclement weather, and those trees would have been from Cleaver Woods Recreation Park in Arima, right across the East-West Corridor, down to Port of Spain, where we had several incidents.

In keeping with the Ministry of Rural Development and Local Government's protocols when dealing with a disaster, the disaster management units were immediately activated along with the corporation personnel such as tree cutters and equipment operators. Where required, agencies like T&TEC, fire services, police service, municipal police, Ministry of Agriculture, Forestry Division, and Ministry of Agriculture, Horticulture Services Division, in addition to the zoological society were called upon to assist.

The disaster management units coordinated the tree removal exercise, debris removal, the cleaning up, the provision of tarpaulins in the case of places where the roof was blown off and other relief items in accordance with the established protocol. Additionally, assessments were conducted in accordance with the protocols established by the Ministry of Social Development and Family Services and those relief programmes are going to be put into effect and relief is expected to be provided this week.

I thank you.

Madam President: Sen. Mark.

Sen. Mark: I will go on to the next question. Thank you.

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

**Upper Bournes Road and Surrounding Community
(Measures to Address Potential Landslide)**

Sen. Wade Mark: To the Minister of Rural Development and Local Government: Given the threat posed to the residents of Upper Bournes Road and the surrounding community by a potential landslide which could result in damages to nearby homes and buildings, what measures are being taken by the relevant agencies to address this situation?

Madam President: Acting Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, since before March 2020, in fact, late last year, Madam President, the Ministry of Rural Development and Local Governmental together with the Ministry of Agriculture, which has responsibility for state land, began taking note of the private development, that is, a private development on Upper Bournes Road—private development—and speaking to the contractors who are on site. Of particular interest to us was the risk of rain and the potential for flood coming down that hillside with the removal of the grass and the trees that would normally hold the soil in place. Those discussions continued through the COVID period.

The contractors approached the Government to conduct certain work during the COVID restrictions to deal with the possibility of problems with the soil and erosion if the rains came. The contractor has been taking the appropriate steps to contain any risk, the agencies continue to monitor, including the corporations, the Ministry of Agriculture and the EMA, and, would ensure that steps are taken,

particularly given the weather patterns, to ensure that there is no risk to those houses which are just beneath the development. I thank you.

Sen. Mark: Madam President, could the Minister indicate what specific steps are being taken by the developer along with government agencies to avoid any untoward dislocation by those residents whose homes are in the immediate vicinity of this particular emerging landslide?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, the developer is in constant contact with the residents. The developer has representatives on site speaking to the residents. The developer accelerated the benching of the sites which would cause a reduction in the potential for soil erosion. The developer has accelerated the development of the drainage on the site to ensure that water runs off, it does not come onto the Upper Bournes Road area. And the developer has put in place emergency measures, including having water and the access to equipment on site—there is a contractor nearby—access to the equipment on site in the event that—

Madam President: Minister.

Sen. The Hon. C. Rambharat:—unusual rainfall brings further damage. Okay, thank you.

COVID-19 Protocols at Bars

(Steps Taken to Address)

Sen. Wade Mark: Next question Ma'am. Yes, Madam President, question No. 3 to the Minister of Health: In light of reports that bar owners and patrons continue to ignore COVID-19 protocols, can the Minister indicate what steps have been taken to address same?

Madam President: Acting Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I thank Sen. Mark for this question, and I know almost every citizen of this country is paying attention to this particular issue. The short answer is that the Minister of Health would be making an announcement with respect to the steps which have been taken at the press conference which is being held at 11.00 a.m. today. The Government has already signalled to the bar owners across the country that we expect compliance with the COVID measures and the Minister intends at 11.00 a.m. to address further matters relating to that issue.

Sen. Mark: Madam President, this is the Parliament, and I do not have to wait for a Minister. Madam President, may I ask the hon. Minister whether concrete steps have been taken to meet with the relevant association representing bar owners with a view to rectifying the situation?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, it is public knowledge the position the Government has taken. The position of the Government has been made clear by the hon. Prime Minister himself. The bar owners, through their association, has responded. The suppliers of alcohol to bars have responded, they have their own association, the alliance, and as I said, I do not think there is need for further consultation. The Government has set out its position, the owners and operators have set out their position, and the distributors of alcohol have set out their position and based on that, the Minister of Health would make the necessary announcements at the 11.00 a.m. press conference.

10.15 a.m.

Hand Sanitizers with Toxic Substances

(Steps Taken to Withdraw)

Sen. Wade Mark: To the hon. Minister of Health: Having regard to the

discovery that some locally produced hand sanitizers contain toxic substances, can the Minister indicate the steps that are being taken to withdraw these products from the market?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, in accordance with the law and the established protocols, a matter of this nature is addressed via the Chemistry, Food and Drugs Division of the Ministry of Health and the Bureau of Standards which forms part of the Ministry of Trade and Industry and the Bureau of Standards and the Chemistry, Food and Drugs Division, they have taken the steps to have any product that does not comply with the appropriate standards, in particular, hand sanitizers, would be removed from the shelves. Thank you.

Sen. Mark: Madam President, can I ask the hon. Minister whether these hand sanitizers were initially approved by the food and drug division of the Ministry of Health?

Sen. The Hon. C. Rambharat: Madam President, the mere fact that they are being removed from the shelf by the work of the Chemistry, Food and Drugs Division and the Bureau of Standards suggests that they have not met—they do not comply with the appropriate standards. So what is on the shelf and what is on the shelf now and what is to be removed have not met the standards of the Chemistry, Food and Drugs Division and the Bureau of Standards.

Madam President: Sen. Mark, the time for urgent questions has expired.

ANSWERS TO QUESTIONS

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, the Government intends to respond to question Nos. 142, 144 and 172, and we are asking for a deferral of the other questions.

Sen. Mark: Can you guide me, Madam President?

Madam President: Yes. So answers will be provided today to 144, 155 and 172?

Sen. The Hon. C. Rambharat: Question Nos. 144 and 155, Madam President. My apologies.

Madam President: Okay. So Questions 144 and 172 are deferred for two weeks.

Sen. The Hon. C. Rambharat: No, Madam President.

Madam President: Let us go again.

Sen. The Hon. C. Rambharat: Sorry for—

Madam President: No, that is all right. The mistake might be mine, so—fine.

Sen. The Hon. C. Rambharat: So, we are responding to 144—

Madam President: Yes.

Sen. The Hon. C. Rambharat: We are responding to 155—

Madam President: Yes.

Sen. The Hon. C. Rambharat:—and we are asking respectfully for a deferral of 145 and 172.

Madam President: Okay. So Questions 145 and 172 are deferred for two weeks. Sen. Mark.

WRITTEN ANSWER TO QUESTION

Balance of Payment Figures in TT Dollars

(Details of)

168. Sen. Amrita Deonarine asked the hon. Minister of Finance:

Can the Minister advise on the following balance of payment figures in TT dollar value and as a percentage of GDP for the year ended December 31, 2019 and Quarter 1 of 2020:

- (i) the current account (total, energy and non-energy);
- (ii) capital account;
- (iii) financial account;

- (iv) net errors and omissions; and
- (v) overall balance?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

Paria Fuel Trading Company Limited

(Moneys Received for Fuel Shipped to Aruba)

- 145.** Can the hon. Minister of Energy and Energy Industries advise as to the amount of money received by Paria Fuel Trading Company Limited from the purchaser of the 150,000 barrels of gasoline shipped to Aruba and allegedly transferred to Venezuela? [*Sen. W. Mark*]

DNA Samples to the Forensic Sciences Centre

(Tobago Medical Practitioners)

- 172.** In light of reports that over the past year medical practitioners in Tobago have been required to courier DNA samples to the Forensic Sciences Centre, in accordance with the Sexual Offences (Amdt.) Act, 2019 and the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018, can the hon. Minister of Health advise:
- (i) whether this is considered to be an efficient and appropriate use of expert medical practitioners; (ii) what can be done to correct this misinterpretation of the legislation; and
 - (iii) how soon will corrective action be taken? [*Sen. Dr. M. Dillon-Remy*]

Questions, by leave, deferred.

Madressa Al Muslimeen Primary School

(State Financial Assistance)

- 144. Sen. Wade Mark** asked the hon. Minister of Education:

Given reports of an agreement between the State and the Jamaat Al Muslimeen for financial assistance in respect of the Madressa Al Muslimeen Primary School, can the Minister indicate:

- (i) whether such agreement has been entered into; and
- (ii) if the answer to (i) above is in the affirmative, what are the terms and conditions of said agreement?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, following a decision of the Cabinet, a memorandum of understanding was executed on January 16, 2020, between the Permanent Secretary, Ministry of Education and Imam Yasin Abu Bakr, religious leader of the Jamaat Al Muslimeen, for financial support to the Madressa Al Muslimeen Primary School. The terms of the agreement are as follows.

With effect from January 01, 2020, financial assistance will be granted to the Jamaat Al Muslimeen for the operation of the Madressa Al Muslimeen Primary School located at No. 1 Mucurapo Road, St. James, Port of Spain, and this assistance includes: funding per term to meet the payment of utility bills namely, telephone, \$400; electricity, \$300; and sewerage, \$200. A monthly grant to be used as a contribution towards the payment of salaries of teachers which would include \$6,483 per month towards the salaries of teachers who are registered with the Ministry of Education and who meet the requirement of five GCE, CXC ordinary level subjects or equivalent including Maths, English and a Science subject; \$5,000 per month towards the salaries of teachers who do not meet the minimum requirement and a flat sum of \$1,000 per term to meet operational costs.

The pre-conditions of this agreement, Madam President, are that the school follows the national primary school curriculum, the Ministry of Education be allowed to assign teachers to teach at the said school after consulting with the

management of the school and the school be subject to the supervision of the Ministry of Education. I thank you.

Sen. Mark: Madam President, can the Minister indicate whether this agreement has a period or a duration?

Sen. The Hon. C. Rambharat: Madam President, my apologies, but I do not have that information in front of me.

Sen. Mark: Can I ask the hon. Minister to provide that information to this honourable Senate?

Sen. The Hon. C. Rambharat: Yes, Madam President, an undertaking to provide the information on the period of the agreement entered into on the 16th of January, 2020. I thank you.

Sen. Mark: Madam President, can I ask the hon. Minister: When did the Madressa Al Muslimeen Primary School apply to the Ministry of Education for financial assistance?

Sen. The Hon. C. Rambharat: Madam President, to add to my previous undertaking to provide it in writing in one week. Thank you.

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

Sen. Mark: Question—is it 155, Madam President?

Madam President: Yes.

Tax Information Exchange Agreements (USA)

(Trinidad and Tobago's Relationship)

155. Sen. Wade Mark asked the hon. Minister of Finance:

Can the Minister indicate whether the formal relationship with the United States Department of the Treasury, pursuant to the Tax Information Exchange Agreements (United States of America) Act, 2017, has been

adversely affected by the Government's engagement with the Vice-President of Venezuela?

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, the Tax Information Exchange Agreements with the United States of America and Trinidad and Tobago is in effect and fully functional and is not impacted in any way by any issue.

Sen. Mark: Yeah. I am happy to hear that, Madam President.

JOINT SELECT COMMITTEE REPORT

(Presentation)

Human Rights, Equality and Diversity

(Persons Living in Poverty in Trinidad and Tobago)

Sen. Hazel Thompson-Ahye: Madam President, I have the honour to present the following report as listed on the Order Paper in the name of Sen. the Hon. Kazim Hosein:

Seventeenth Report of the Joint Select Committee on Human Rights, Equality and Diversity, Fifth Session (2019/2020), Eleventh Parliament on an Inquiry into Persons living in Poverty and Extreme Poverty in Trinidad and Tobago with specific focus on Vulnerable Groups.

I do apologize for myself and for the hon. Senator who is not here.

JOINT SELECT COMMITTEE

National Statistical Institute of Trinidad and Tobago Bill, 2018

(Extension of Time)

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, having regard to the Fourth Interim Report of the Joint Select Committee appointed to consider and report on the National Statistical

Institute of Trinidad and Tobago Bill, 2018, Fifth Session (2019/2020), Eleventh Parliament, I beg to move that the Committee be granted an extension to August 31, 2020, to complete its work and submit a final report.

Question put and agreed to.

MISCELLANEOUS AMENDMENTS (NO. 2) BILL, 2020

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Madam President, I beg to move: That a Bill to amend the Interpretation Act, Chap. 3:01, the Summary Courts Act, Chap. 4:20, the Petty Civil Courts Act, Chap. 4:21, the Sentencing Commission Act, Chap. 4:32, the Judicial and Legal Service Act, Chap. 6:01, the Evidence Act, Chap. 7:02, the Malicious Damage Act, Chap. 11:06, the Coinage Offences Act, Chap. 11:15, the Sexual Offences Act, Chap. 11:28, the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, the Community Service Orders Act, Chap. 13:06, the Defence Act, Chap. 14:01, the Firearms Act, Chap. 16:01, the Explosives Act, Chap. 16:02, the Registrar General Act, Chap. 19:03, the Cinematograph Act, Chap. 20:10, the Registration of Clubs Act, Chap. 21:01, the Theatres and Dance Halls Act, Chap. 21:03, the Electronic Transactions Act, Chap. 22:05, the Elections and Boundaries Commission (Local Government and Tobago House of Assembly) Act, Chap. 25:50, the Mental Health Act, Chap. 28:02, the Children Act, Chap. 46:01, the Motor Vehicles and Road Traffic Act, Chap. 48:50, the Conservation of Wild Life Act, Chap. 67:01, the Value Added Tax Act, Chap. 75:06, the Customs Act, Chap. 78:01, the Companies Act, Chap. 81:01, the Moneylenders Act, Chap. 84:04, the Pawnbrokers Act, Chap. 84:05, the Licensing of Dealers (Precious Metals and Stones) Act, Chap. 84:06, the Old Metal and Marine Stores Act, Chap. 84:07, the Liquor Licences Act, Chap. 84:10, the Administration of Justice (Indictable Proceedings) Act, 2011, the Criminal

Division and District Criminal and Traffic Courts Act, 2018 and the Electronic Payments into and out of Court Act, 2018, be now read a second time.

Madam President, I stand before this honourable Senate today to bring to the front a number of amendments which seem long in the hand, but are actually very closely related. I wish to state that as a result of the process of legislative reform that we have engaged in over the last five years that we have very successfully managed to implement almost all of the laws that we have passed. In the course of that passage of laws we, of course, have done so much amendment that it is necessary in the course of operationalization, that we now harmonize amendments across multiple platforms.

For instance, Madam President, immediately I can refer hon. Members to the fact that clauses 18, 19, 20, 30, 31, 32 and 34, are all related to one amendment which we have caused in law. Similarly, Madam President, the amendments that we bring before the House are related to the operationalization of the criminal justice reforms, equally important to the positions in the amendment to the package of laws to treat with children and motor vehicles.

In the very truncated time that we have, permit me therefore to dive immediately to the Bill to raise issues that are in common, and then to rely upon the explanation for these across the various laws which echo the need for these amendments. Obviously, Madam President, you will notice the short title at clause 1 and the commencement provision at clause 2. The commencement is there specifically because in the course of operationalizing law, we are sure to write to stakeholders to ask for their readiness and, therefore, we have the ability to proclaim this law in parts, if necessary, depending upon the operational readiness for the implementation of law across stakeholders.

The amendments at clause 3 to the Interpretation Act are very important.

You will know, Madam President that we introduced the concept of the Clerk and that Magistracy Clerk now stands in place of the Clerk of the Peace. Prior to the amendments which we did across the Family and Children Division and the Criminal Division and Traffic Courts Act, you will note that we had an unqualified person, meaning an attorney-at-law was not present in the shoes of a Clerk of the Peace, notwithstanding the fact that the Clerk of the Peace in fact engaged in what seemed to be the practice of law in breach of the Legal Profession Act. We therefore seek to insert into the Interpretation Act, so we can tidy up the references to Clerk of the Court or Clerk of the Peace, by specifically referring to the terms, the Senior Magistracy Registrar and Clerk of the Court or the Magistracy Registrar and Clerk of the Court. Similarly, this allows for the following events: the full abolition of the concept of Clerk of the Peace which we took care of in earlier laws.

With the passage of the Criminal Division and District Criminal and Traffic Courts Act, No. 12 of 2018, the new designations that we brought into effect saw, for first time, the administration of the Magistracy across its summary court jurisdiction and petty civil jurisdiction, via the use of the equivalent of a Registrar of the Magistrates' Court. I cannot underestimate to hon. Members the severe importance, the critical importance of that amendment. That has allowed us to bring much needed efficiency to the criminal justice system where the vast majority of cases are heard in the Magistracy.

Madam President, it is important to note that in this particular amendment, we also ensure a reference to Collecting Officers. Why? We have, in fact, with the electronic transactions, introduced into the court system via the payment into and out-of-court legislation, it is important for us to put into the Interpretation Act, the definition of a Collecting Officer to allow us to have that done, not only in

manual systems at the court, but by way of electronic transactions as currently happens.

Madam President, the amendment to the Summary Courts Act in clause 4, we introduced very important terms. Obviously, we harmonized the reference to Clerk to mean the Magistracy Registrar—if I use that truncated term—but importantly, we are now introducing the court location. What is this about? Perhaps Members have not noticed. We, by Order, amended the number of magisterial districts in Trinidad and Tobago to three. Those magisterial districts are now: Tobago, north Trinidad and south Trinidad. What does this mean? It means that we no longer have to go to a magisterial district. You get a traffic offence in Rio Claro, you live in Scarborough, you are bound to return to Rio Claro because it is in that magisterial district.

Now, pursuant to this amendment, the Chief Justice has the ability, taking into account the criminal division section 24, where we created specialist courts, taking into account, Legal Notice No. 99 of 2020, where we reduced the magisterial districts to three, we can now use court locations. This is critically important because we now have video court conferences at the prisons, for instance, where we have installed 12 courts. We stopped transporting prisoners. We now have had over 3,000 matters at the courts saving this country \$25 million a year in prisoner transport.

We very importantly anchored the concept of video link and we sought to put this into the Summary Courts Act—you will see it in the Petty Civil Courts Act as well—where we put in the video link, so that we can deem where the trial is being heard by way of a video conference. We can actually have the technological equipment by reference to what are the basic requirements that all parties are heard—the judge, the parties, the interpreter, et cetera.

We very importantly now give magistrates the jurisdiction throughout Trinidad and Tobago. No longer are they shackled to the magisterial district as to where they can hear their matters, and we allow the Chief Justice, by Order, to designate locations in each district. This is critically important when we are looking to liquor licensing, specialist courts, such as, the gun court and fraud courts and the petty civil arena which will become operational very shortly, but these are critical reforms to changing the criminal justice system.

Madam President, of course, we then seek to further harmonize, throughout the Summary Courts Act, the references to court locations in districts as we now have three, and we allow the Chief Justice by Practice Direction to determine those court locations. Critically, we now allow for records at courts to be specifically held electronically. We know that this country suffered because of the manual recordkeeping at the courts, and now that we have the FTR technology, the video recording technology in every Magistrates' Court and every court in Trinidad and Tobago, now that we have revolutionized the court system, it is important that recordkeeping be allowed to happen in an electronic environment.

We have allowed for the assignment, reassignment and designation of magistrates and court locations via the Chief Justice, exactly as we have in the High Court arena, bringing the High Court lessons that we have learnt and the successes we have had in the civil division, in particular, across the Magistracy, bringing it into relevance finally.

Madam President, we have also allowed the concept of the Keeper to be managed for the collection of fines, fees. Now, of course, you know there are three types of revenues that you keep at the Magistrates' Court, fines, fees and then, of course, you have the concept of payments which are in trust, such as maintenance, et cetera. We have had to define who can keep these positions and the manner in

which they are kept in electronic form. We have tied it in to the transmission to the accounting officer in anticipation of the public procurement laws coming into full effect and, specifically, because of the financial instructions under the Electronic Transactions Act.

Madam President, we have also allowed for the management of fees which are not taken care of traditionally, to be done by way of the rules of the Supreme Court in an introduction of a new section 21A:

- “(c) the filing of documents;
- (d) the service of documents...
- (f) the use of mediation;
- (g) the use of technology;
- (h) conveniences...”

All of these alternative mechanisms have to be managed, and instead of having it done on an ad hoc basis, Order by Order, we asked for this to be done by way of rules of the Supreme Court so that the bar and bench are involved in what the establishment of fees looks like, strictly regulated.

We have very importantly sought to harmonize the statement of offence, Madam President, so that we have a clearer picture. This statement of offence in criminal matters is critical as we go to an electronic transformation of the courts. The Judiciary, the public defender, the DPP’s Office and the police are now—thanks to the Attorney General’s Office and the combined efforts of these entities—all on the same technological platform, because of the use of CourtMail where we issue out the Orders and we have a unified electronic room. This allows us to have uniformity in the filing of documents, in the filing of criminal complaints, for the first time, accelerating the pace of justice radically and in the interest of justice.

Madam President, we have cut and paste these amendments across the Petty Civil Courts Act. That is in clause 5. May I ask what time I end in full time?

Madam President: You have 17 more minutes. You end at 10.55.

Hon. F. Al-Rawi: At 10.55. So, Madam President, clause 5, which has the petty civil amendments to Chap. 4:21, court location, Clerk, Magistrate sitting in petty civil, removing the nomenclature issues of the judge sitting in civil arena, I should tell you now that we have prepared amendments to the civil arena to create the civil division with a subset being the small claims court. The small claims court will critically have judicial mediation annexed to this because the limit is \$50,000. We do not want people to have to spend obscene amounts of money on their attorneys-at-law when court annexed mediation is the solution to this type of mechanism. Again, radical transformation of the Judiciary.

Madam President, we basically adopt the rationale for clause 3, clause 4 into clause 5, asking hon. Members to accept the rationale that I have given for the Summary Courts Act to the Petty Civil Courts Act: transfer, location, court locations, maintenance of records, et cetera. Clause 6 amends the Sentencing Commission. What we do now—because we have the JEI, the Judicial Education Institute—is we harmonize all reports from the Sentencing Commission to move to the Chief Justice and, therefore, the Chief Justice via the JEI and the judicial coordination, will then harmonize the work of the Sentencing Commission as we bring that Sentencing Commission into full life.

Clause 7 amends the Judicial and Legal Service Act. Very critically, we are cleaning up the references to Court Executive Administrator and Master. We already made those amendments in law. I gave the undertaking to do that. The reference to Master was the anomaly of the Master having to fall under the jurisdiction of the Registrar, which is wrong. The Master ought not to be under the

Registrar, but instead under the Chief Justice. Importantly, we are asking for the insertion of the Magistracy Registrar and Clerks of the Court, because they were not in the parent Act, they were just in the Schedules. You need to put the operative terms and conditions into the parent law.

We have then put out the functions of the Senior Magistracy Registrar and Clerk of the Court. Why? Even though these functions were in the Criminal Division law, we needed to put it into the Judicial and Legal Services Act so that we could harmonize these positions. We have set out their functions at law, effectively mirroring from the respective pieces of law and harmonizing into the Judicial and Legal Services Act.

We have, Madam President, also allowed for the Registrar General to move to the terms and conditions of the senior officers of the State, the DPP, the Solicitor General, the Chief State Solicitor and the CPC. We have allowed that because the Registrar General at the Ministry of Legal Affairs has massive functionality under the amended laws that we have caused—non-profit organization, beneficial ownership, FIU, real estate agents, registration of deeds, running thousands of employees with thousands of persons accessing the Registrar General's services on a daily basis, and it is high time that that anomaly of 14 years of song and dance is finally concluded in legislation.

Madam President, I turn next to the Evidence Act. We had to insert the reference to Senior Magistracy Registrar and Clerk of the Court. This is, of course, to substitute the Clerk of the Peace. Similarly, clause 9 which deals with the Malicious Damages Act, we wanted this law to be managed so that the Judiciary had rule making power to assist in developing case management strategies. This is an underutilized provision of the law for malicious damages and as we birth the new system of justice in this country, we are cleaning this up.

The coinage offences under clause 10, we are looking specifically to include the Justice of the Peace. The Justice of the Peace is authorized to handle evidence seizure. This is an anomaly at law which needed to be cured. It is because of our concentration on the administration of justice that we are aware of that.

I turn next to the amendments in clause 11 to the Sexual Offences Act. We had agreed on the last occasion when we amended the Sexual Offences Act, that we should do this by negative resolution. I had done that in the debate and I have therefore kept the undertaking before the honourable Senate today.

The amendment in clause 12 to the Indictable Offences (Preliminary Enquiries) Act is to treat with the concept of Keeper. What does this mean? It is simple. The law currently requires that a police officer must go and get the prisoner and bring the prisoner to court. What happens if you have done as we have, which is to take the court to the prison? You no longer need to have the police officer moving up and down. You instead have the Keeper at the prison managing the movement to the court which is at the prison and, therefore, this is a harmonization for the over 3,000—nearly 4,000 matters as we move forward that we are hearing from the prison courts in the virtual courts that we have set up there.

We have amended at clause 13, the Community Services Order. Again, harmonizing “court location” and “Clerk”, et cetera, keeping the amendments as we did to clause 4 and clause 5 close at hand. Clause 14 treats with the amendment to the Defence Act. This is a critical amendment. We are adding in a Vice CDS so that we have succession planning. We are adding in interdiction via due process, so that the President for commissioned officers or the CDS for non-commissioned officers can interdict people. Now, you will see a reference to a civil offence. Note that expression. Civil offence in the Defence Act means a

crime. It is not in reference to civil law. It is to allow for people who are on charges in the courts to be the subject of due process interdiction, docking of salaries, et cetera, in a full environment. This takes us out of the anomaly of paying for persons who are in jail or incarcerated where the Army has the ability via the President—and I mean across all the divisions the TTDF—via the President and via the CDS to now regulate its affairs to bring law and order into the TTDF.

10.45 a.m.

We are seeking to create the air guard wing, it is something which is long overdue in the, Defence Act and this is something which we are very pleased. I pay salute to Sheldon Ramnanan who has organized these amendments coming via the CDS, the hard-working CDS back to back from the previous CDS to the present one in causing these amendments.

Madam President, we have amended the Firearms Act at clause 15 quite simply to take care of the COVID relief where licences could not be paid. We have put in the springboard for the extension of licensing terms and provisions as you see appearing in the Bill. We have amended at clause 16 the Explosives Act to introduce the term “Clerk”, again, borrowing from the whole concept of the Magistracy Registrar and Clerk of the Peace, this needed to be added in there. The Registrar General at clause 17, we have a small amendment to circulate at committee stage, but what we are doing here is really a radical bit in preparation for the laws that we operationalize. We are allowing for the Registrar to keep electronic records—why?—for accounting, because we have already gone online, and as we broaden the fact of all payments for companies, all payments for land transactions going via electronic transactions, it is necessary to have the law catch up with this as we are operationalizing our way into thousands of success points going ahead.

We will amend the reference to the days—you will notice that every Carnival period, you see the Registrar is forced to pay for an ad in the newspapers to say the RG is not going to be open on Carnival Monday and Tuesday, that just required a tweak to the law which we are proposing here. Clauses 18, 19, 20, Cinematograph Act, Registration of Clubs Act, amendments to the Theatres and Dance Halls Act, and then when we get down to clauses 30, 31, 32, 34, these are all to take care of the amendments which we have done in introducing the concept of the Magistracy Registrar in place of the Clerk of the Peace. We had to amend the provision because Clerks of the Peace have been abolished, now we have the Registrar effectively sitting across these committees; liquor licensing, cinematographs, theatres, dance hall, members' clubs, et cetera, it is to harmonize the law. We put the secretary into law for the first time as a person inside of that committee and we allow for a better functionality across those divisions.

The Electronic Transactions Act at clause 21, this is a radically important amendment, it allows us by way of regulations—and I can tell you, we have drafted them already to launch the entire electronic payments across Trinidad and Tobago—the certification is better done, by way of regulation, as opposed to parent Act certification, as you see in section 32 of that Act. Clause 22 amends the Elections and Boundaries law that is to allow for the laying of the local government report. The EBC, due to the closure at COVID, could not bring the report forward in time, it is laid in Parliament but it is out of time and therefore, we must amend the law to allow for the laying of that report. Clause 23 amends the Mental Health Act. We are putting the functions to deal with psychiatric hospital tribunals into the Chief Justice because the Chief Justice, with our specialist courts, has a better autonomy and better jurisdiction to manage who ought to sit on these tribunals as opposed to necessarily inundating the Chief Magistrate.

We amend the Children Act to amend the concept of grooming. This was something which was long overdue. The rectification process in the 2012 Act, it had an erroneous reference and distinction, we needed to remove that. Importantly, in the Children Act you will see we are adding in “Child Traffic Violators”, children get their licence at 17, they are therefore still children. Child traffic violators must be treated separately. They must be referred to child traffic counselling. They must be made to organize themselves outside of the criminal law. This improves and moves on with the amendments that we have done to treat our children differently. I know Sen. Thompson-Ahye is going to raise an issue that I do not have time to treat with in the piloting but which I will deal with a little bit later. Suffice it to say that other issues of the age of discretion that we are looking at, I have consulted with the Judiciary, we are not quite yet to treat with those amendments. I asked specifically at the hon. Senator’s enquiry which she made personally to me, but I will explain that in greater detail later.

We have amended the Motor Vehicles and Road Traffic Act at clause 25, again, we have add for the continuation of validity. We are looking at the licensing for driving permits, taxi drivers, badges, et cetera, for motor vehicle registration, et cetera, there is a backlog and therefore we need to extend the date because extensions are being given by way of appointment right now and therefore we need to factor how that operationally works. You will see the reference to child traffic counselling, the reference to attendance of a child at the child trafficking programme, and then the consequences in demerit added into the Ninth Schedule. Five minutes, thank you, Madam President. Clause 26 amends the Conservation of Wild Life Act, and when we look to the Conservation of Wild Life Act, we are amending the ridiculous penalties of \$10,000 to a higher sum of at least \$100,000. We are managing the appointment of the committee, and the hon. Minister of

Agriculture, Land and Fisheries will treat with that particular point, but suffice it to say, the specificity that the law required was just operationally impossible and the hon. Minister of Agriculture, Land and Fisheries asked for these amendments as we have caused.

We are amending the Value Added Tax Act, and particularly in that we are adding in the fact that the issuance of bonds may be taxable or non-taxable. Why? The Minister of Finance has signalled, as we pay off the last few billion dollars of payments, having done so many already, that we allow for the interest that can come on these bonds to be non-taxable, allowing for more money to be met into the hands of persons who receive these bonds. We are amending at clause 28 the Customs Act, and in particular, this is to keep with the harmonization of the forms for entry, Immigration Act, the health legislation, the food and drugs legislation, the Customs Act. We have now, because of the ease of doing business, harmonized the forms, instead of having the parent law put out the form, and every time you amend the form, you have to come and amend the parent Act, you will see we are saying that the forms are to be issued in prescribed forms. These forms are ready and we have inserted the definition of a “pleasure craft”, because a “pleasure craft” has to be excepted out. We have a large yachting industry here and this allows for ease of yachting. Particularly, with the COVID pandemic, we have seen an influx of yachts coming into Trinidad and Tobago as our hurricane belt location outside of it has allowed for greater business, we have had that request coming at us; it is as the Minister of Trade and Industry will speak to, a request which is prospective. We have, of course with the COVID restrictions, not allowed vessels in yet, but we are getting the knock on the door and we must therefore be ready for that surge as soon as the Ministry of Health and National Security can manage that.

Clause 29, this might seem simple, it is radically important. It is ridiculous to have a name search and name reservation expire 20 to 25 days, we had to amend it to a longer period for the ease of doing business and we have definitely moved that forward as you will see appearing in the legislation, Madam President, now at 45 days. We are amending the Moneylenders Act, Pawnbrokers Act, the Licensing of Dealers (Precious Metals and Stones), Old Metal and Marine Stores, liquor licensing, as I have said earlier, to catch the fact that we have abolished the Clerk of the Peace, we now anchor the secretary into the committee. We make sure that they are paid properly and we put them into the municipal corporation in which they appear, no longer magisterial district, as we have simplified the magisterial districts.

Clause 35, we amend the Administration of Justice (Indictable Proceedings) Act, very critically, to include the video link; very critically, to have the reference to the senior Magistracy Registrar, et cetera, included; very critically, to allow for the recording of your answer by electronic means. This long-hand paper writing concept is anachronistic, the Privy Council does not use it, why should we, especially now that we have introduced all of the technology into the courts. The Criminal Division, we have added in the reorganization of the roles, that is at clause 36, for the Criminal Division and district courts, as we have them set out. And the electronic payments into and out of court, clause 37, we are making drafting reference amendments.

You will see, Madam President, that this is a very useful operation of Parliament's time. To amend 35 laws, Bill by Bill, might annoy and anger the Leader of the Opposition, but it is the opposite of efficiency in the work of the Parliament. If we take the advice coming from elsewhere that we take an individual Bill for each of these things, we will just never get it done. This is the

way we make best use of parliamentary time, and I thank you, Madam President, for the opportunity to pilot this Bill. I am sure that there will be a lot of questions at committee stage, and I beg to move. [*Desk thumping*]

Question proposed.

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

Sen. Wade Mark: Thank you very much, Madam President. Madam President, you know, I was about to begin by saying, like that gentleman who died in the United States, that “I cannot breathe”, the Senate cannot breathe. Madam President, would you believe that the Government is using COVID-19 to stifle the rights of our bench to speak in accordance with the Standing Orders? We cannot breathe. This is an undermining of our democracy by this outgoing Government and I want to put on record, Madam President, our strongest objection to this continuation of abuse. It is unacceptable, Madam President, but they are out. Madam President, may I say from the very outset, I have never seen 36 Bills to be amended in one piece of legislation and you are giving Members of Parliament 20 minutes after my 30 minutes. It is an abuse of the process. It is an undermining of the parliamentary democratic process, unacceptable. Madam President, there are so many things that I would like to say and I am being denied the right of saying it because I do not have the time, so I have to confine myself to one or two measures that are being amended here today. But I want to say very early that power corrupts and absolute power corrupts absolutely.

Madam President, the areas that I am going to touch on briefly, clauses 4, 5, 6, 7, 11, 23, 27, 28, as quickly as I can. I just do not have the time because the PNM decided not to give the Parliament the opportunity to speak in accordance with our Constitution and Standing Orders. Madam President, the areas that I am going to look at, I want to summarize them in the following ways before I get

down to the specifics. One, the areas I am going to look at is establishing what I consider to be an unprecedented concentration of power into the hands of one officeholder which represents the manifest undermining of the office of other officeholders. And, Madam President, it does two things, you are concentrating power in the hands of the Chief Justice and at the same time you are removing power from the Chief Magistrate; that is the first area I have been able to discern in this matter. And I want to ask the Attorney General when he is winding up here, who is the author of these amendments? Is it the CPC or is it the Judiciary? You must clear the air on these matters when you are winding up.

Madam President, the second area I am seeing in this particular package of amendments, which is strangulating us, strangling us, forcing us not to breathe, is the undermining and dismantling of the scrutiny role of the Parliament and the Government is infringing the rights of the citizen by removing—later on I would show—“affirmative” and replacing it with “negative”. Madam President, the third area I am seeing emerging from these amendments is an undermining of National Security in order to make the rich richer and the poor poorer by removing a public officer in the persona of the Comptroller of Customs and Excise and replacing them by politicians to make orders. And the last area that I have looked at, Madam President, in summarizing my points is making the rich richer and the poor poorer by making bonds issued by the Government non-taxable, as the Attorney General just said. Madam President, this has come on the heels of an early amendment in 2019 to make bonds transferable. So the Government has brought 36 amendments aimed at confusing us in this Parliament and obfuscating very critical and dangerous and far-reaching provisions in the legislation that is before us.

Madam President, if I can quickly go to 4(e)(iii), which is amending section 7 of the Summary Courts Act which is before us today, this amendment seeks to

empower the Chief Justice to make a wide discretion without a formal docketing system or such other system that is free from prejudice to transfer—Madam President, listen carefully, the Chief Justice is being given the power to transfer:

“(2) ...any case or any type of case...from one court location to another court location.”

Where did the Chief Justice get that power from? But we want to give him that power? Madam President, this would allow for what I call forum shopping by the Judiciary to bring about an outcome in any particular case; that is my assessment. And, Madam President, we have to be very careful that we do not allow the Chief Justice—and, Madam President, when I talk about the Chief Justice, I am not raising about no conduct, I am dealing with the powers that are in the Bill here.

Madam President: Sen. Mark, I have to caution you at this stage, make your contribution without making reference in an offensive manner to officeholders.

Sen. W. Mark: All right. Thank you, I am guided. Thank you very much.

Madam President, the Chief Justice can, in effect, assign a specific case from a presiding magistrate to another magistrate of his choice who may be beholden to him or his subordinate, this undermines the independence of the presiding magistrate and the Judiciary. It also erodes the right to a fair hearing before an impartial court. It further undermines the autonomy of the Chief Magistrate. Madam President, further, steps that are designed to be case specific can have far-reaching consequences such as political influences. Madam President, if you go to clause 4(k) of this Bill, you see in section 13B of the Summary Courts Act where this section seeks not simply to empower the Chief Justice to designate another magistrate for a specific case, but rather it seeks to reassign the magistrate or justice to another district. Madam President, this may result in several part-heard matters having to be held in what is called de novo and creating backlog

and augmenting the problem with reassignments. Madam President, this matter is very critical in dealing with the issue that is before us.

Madam President, what we are seeing is that throughout the Bill, in this section, there are recommendations for the Rules Committee of the Supreme Court to make rules relating to the practice and procedure of the summary courts. Madam President, the Rules Committee does not comprise any magistrate or the Magistracy Registrar and therefore, would not be best suited to make these changes governing the court. They are likely to make rules that are unworkable given the unique situation that exists in our summary courts. Madam President, if you go to clause 5(a)(i), you have an amendment to the Petty Civil Courts, Madam President, these courts already have a threshold of cases to deal with under \$50,000 irrespective of the type of cases that come before them. Since in the civil jurisdiction of the High Court, there is no specialization of the courts, there appears to be no justification for the authority to create specialization in the Petty Civil Court.

Madam President, we go on to clause 5(b), (1C), and we are seeing the effect of this amendment is similar to what I just outlined earlier, it is repealing section 6 of the Summary Courts Act which amounts to an attempt to undermine the public service and place power in the hands of the Chief Justice to assign Clerks as he sees fits. Madam President, the consequence can have a plethora of outcomes as the Clerks have wide administrative functions, from liquor licensing to such other functions in the Magistrates' Court. Further, in clause 5(f) it empowers the magistrates to refer a party to mediation, pursuant to a judicial discretion. Madam President, this amounts to a denial of a litigant to access justice and a right to have his or her matter litigated. Mediation services may not necessarily be free therefore, a fee may be imposed for mediation services which, of course, Madam

President, is a denial of a litigant's right to access justice.

Madam President, let us go to clause 6 in the section to amend section 5(2) of the Sentencing Commission, there is no basis set out for removal or the removal of the Chief Magistrate from receiving report from the commission under section 5 of the Act. Madam President, the Act provides guidelines for sentencing. The Magistracy deals with far more sentencing than the High Court. This will inevitably result in a lack of standardization of sentencing and lead to greater appeals for those who can afford to do so, or risk unfair sentences resulting in unjust denial of liberty of accused person. Madam President, the Magistrates' Court is therefore being starved of the committee's recommendations and learnings needed for standardization and guidance and best practices for fair and just sentencing of accused persons. This is a clear undermining of the office of the Chief Magistrate and the Magistracy as a whole.

Madam President, when you go to clause 7, the Judicial and Legal Service Act, there is no basis set out for requiring a Master of the High Court to report to the Court Executive Administrator, who is a contract officer instead of the Registrar of the Supreme Court. This seeks to significantly increase the power of the Court Executive Administrator for no good reason whose actual function is purely administrative. The role of the Registrar of the Supreme Court is being eroded by this amendment, by the uncanny elevation of the status of the Court Executive Administrator. Madam President, if you go to clause 7(c), we see the introduction of 15C, it proposes a wide discretion to magistrates, registrar and Clerks; that should be properly defined in the Act, it is not defined. This exposes the operation of the magistracy to be the subject to the whims and fancies of the Court Executive Administrator under this unreasonably wide discretion which has quasi-judicial functions. Madam President, further, it is giving the Chief Justice

greater control by removing Masters of the High Court from under the direct supervision of the Registrar. To direct supervision by the Chief Justice is a further example of the undermining of the office of the Registrar of the Supreme Court, and it is widening of the power of the Chief Justice which places the officeholder in a position to have an indirect influence over the award of damages as well as certain judicial functions exercised by the masters.

Madam President, this is dangerous. This is too serious a matter to be taken in the whimsical fashion that the Attorney General is seeking to deal with. Madam President, this matter should have gone to a joint select committee. My research has shown that there has been no consultation, not even with the Law Association of Trinidad and Tobago. Madam President, when we look at clause 11—Madam President, you were in the Chair when we dealt with amendments to the Sexual Offences Act through the report that came from the Joint Select Committee, the proposed amendment prevents draft legislation from being approved by both Houses of Parliament whimsically. These are not largely administrative matters over which more flexibility is needed via negative resolution. Madam President, these are fundamental legislation that may take away the freedom of persons, and therefore we agreed, and the Attorney General is on *Hansard* as agreeing with affirmative resolution.

11.15 a.m.

The hon. Attorney General comes here today and says he gives an undertaking that he would come back here to remove affirmative to negative. We cannot agree to that. You are going to be impacting upon people's fundamental rights and freedoms under Schedules I and II of the Sexual Offences Act, and we are not prepared to agree to that, Madam President.

So, Madam President, we go further. Let us look at the Mental Health Act.

We are seeing under the Mental Health Act, the Chief Magistrate or her designate is proposed to be removed from the Psychiatric Hospital Tribunal, and replaced by a representative of the Judiciary appointed by the Chief Justice. Why are these things happening? Why is the legislation seeking to undermine the office of Chief Magistrate and the Registrar of the Supreme Court, both in favour of the Chief Justice and the Court Executive Administrator?

The proposed amendment does not specify whether the representative of the Judiciary should be a judicial officer or not. It therefore may involve a non-judicial person sitting and deciding matters under section 18 of the Mental Health Act, as it relates to admitting persons to a mental hospital, which may be done by a judge or a magistrate under section 13 of the said Mental Health Act. What this is showing is that there is a clear widening of the power of the Chief Justice and the Attorney General has not provided this Parliament with any good reason for this extension and expansion of this kind of power.

Madam President, what we are seeing in clause 36(b) in the Criminal Division, District Criminal and Traffic Court, we are seeing that this clause is seeking to replace again the “Chief Magistrate” with the “Chief Justice”. That is what we are seeing as we go through this Bill. We are seeing where efforts are being made to undermine, from what I am seeing here, and to weaken the office of the Chief Magistrate, and there are no, as I said, reasons being advanced by the Government for this particular arrangement.

Madam President, I want to just let you know briefly that when we look at the various amendments that I have gone through with the summary Act, the Petty Civil Courts Act, the Judicial and Legal Service (Amdt.) Act, what we are seeing is a concentration of power in the hands of the Chief Justice and there are efforts to ensure that in these changes, the Chief Magistrate is weakened as well as the

Registrar of the Supreme Court.

I just want to go back briefly to this matter of the amendment from affirmative to negative. When we look at the debate that we had, the 2019 Act included affirmative resolution as a procedural protection and/or oversight mechanism, in order to ensure compliance with section 13 of the Constitution. Therefore, it cannot be removed without rendering the entire registration process unconstitutional and/or non-compliant with section 13. So the Attorney General cannot come here and simply say you are going to replace affirmative with the word “negative”.

Madam President, the specific removal of this procedural protection and our oversight mechanism is disproportionate in that it fails certain limbs of what is called the “proportionality test”. If it does not pass the proportionality test, it fails, and therefore the AG cannot proceed, as far as we are concerned, with this amendment in the way that is being suggested.

Madam President, I also wish to bring to your attention an amendment to what is called “section 28” of the legislation. There is no doubt this refers to the Customs Act. What this is trying to do is to bring pleasure craft in line with commercial vessels as far as the customs law and procedures are applicable. At the present time, commercial vessels are required to submit certain prescribed customs forms with a great amount of details. On the other hand, the pleasure craft is required to submit a form with limited details. What the Bill is seeking to institute is greater controls over pleasure crafts. It starts with a definition of what is a pleasure craft. However, we want that definition to be brought in line with the Shipping Act. Because in clause 28(a) of the Shipping Act—that is under regulation 40 I should say of the Shipping Act—there is need for us to use that definition in defining a pleasure craft.

The Customs and Excise departments were joined together in 1930, and section 264 is in existence for 90 years. Therefore, the Comptroller of Customs and Excise is on the ground. He has a hand-on approach to his job, and he is in the best position to determine what is required as it relates to lawful authority to introduce and/or to amend forms. This section has worked efficiently since 1930, why change it now? Why interfere with something which is working very well? Why give the Minister the power to make orders? What is the rationale for this change? We are moving away from a public office and a public officeholder—

Madam President: Sen. Mark, you have five more minutes.

Sen. W. Mark: Yes, thank you, Madam President— and putting that into the hands of a politician. You know, Madam President, with no aspersions being cast, the politician happens to be the Minister of Finance, and the Minister of Finance is an owner of a pleasure craft—no aspersions being meant.

Madam President: Sen. Mark, I know you are saying that, but I really do think that you should not be putting those sentences together, okay, because you are imputing improper motives.

Sen. W. Mark: But, Madam President, all I am saying is that there appears to be a conflict of interest between, for instance, a measure where you have a comptroller of customs and excise now in charge, and with this amendment, it is a public officer who exercise independence and we are now putting that in the hands of the Minister of Finance, something is wrong with that.

Madam President, if you go to clause 27. First, it was transferability of bonds, bonds became transferable, and now, the Government has gone further. They are saying that they are not going to tax people who purchase those bonds. So what is going on? This Government is bringing legislation to make the rich richer and the poor poorer, that is what this legislation is all about. It is

unacceptable what this Government is doing.

And the Attorney General came today, he gave us no in-depth analysis of the dangerous and far-reaching measures contained in the legislation, and with 36 amendments deliberately done to confuse us, with a limited time frame and then sits down and says, “Debate it”.

This country I thought was creeping towards dictatorship. Today I am telling you, Madam President, we are galloping towards a dictatorship. That is what is happening in our country today under this PNM Government.

May I say, in closing, under clause 7—what the Government is trying to do in clause 7, the Government is trying to equate the Registrar General with that of the Chief State Solicitor. The Chief Legal Officers have powers of Permanent Secretaries under the Act. They head legal departments, and I know of three legal departments under the Attorney General: the Criminal Law, headed by the DPP; the Civil Law, headed by the Solicitor General; and the Legislative Drafting, headed by the Chief Parliamentary Counsel.

The Office of Registrar General is junior to the Solicitor General, and is an officeholder under the Civil Law Department. So the SG will therefore have disciplinary control over the RG, which is the Registrar General. Why should they now try to get the RG, the Registrar General that is, to enjoy the same terms and conditions? Is that appropriate? Is the Government seeking to usurp the role of the SRC once more?

These things are going to be challenged in the courts, you know. The Attorney General cannot come into this Parliament and make laws that are going to undermine the rule of law and our democracy. We are not going to permit that. So I am saying to the Government, if you want to make the Registrar General a legal officer, amend the law and do that. But do not come here in a surreptitious manner

and equate the Registrar General with that of the Solicitor General by making her a Chief Legal Officer. How can you do that? You cannot do that. This is unacceptable, and I serve notice on this Parliament, through you, Madam President, that we are going to be proposing a number of amendments to this legislation. They could reject it, they “eh” bound to accept it, but what the Attorney General and the Government is doing is totally unacceptable. They are creating a monarch. They are creating an emperor. They are creating a powerhouse in this country that will come to haunt them in the final analysis.

In this regard, I will propose and circulate the relevant amendments to deal with all the deficiencies and weaknesses that I have discerned in this piece of legislation, on behalf of the United National Congress, the incoming government of the Republic of T&T.

Sen. Hazel Thompson-Ahye: Thank you, Madam President, for the opportunity to join this debate on the Miscellaneous Amendments (No. 2) Bill, 2020. It took the Attorney General two minutes to read just the title of the Bill, the longest in history perhaps. Thank God you were able to read a little faster than he was.

Now this exercise of amendment of existing legislation reminds me of a story I heard as a child, during one of our many biannual vacations in Mayaro. Every Easter and August, we would head up to uncle Horatio’s house, and one of the favourite things about it is that we would tell stories. So in addition to the beach and the fish, storytelling. There was a story I particularly loved written by James Baldwin, and it was *The Endless Tale* of a king who had nothing better to think, nothing better to do than listen to stories, and he wanted a story that had no end. So his prospective son-in-law came and told him about the locust and taking a little grain of corn. So the corn heap was so large, the locust came and took another grain of corn, and the locust came and took another grain of corn, and so

on, and so on, and so on.

Now, this Senate in June 2018, facilitated a giant step forward for the Judiciary by passing legislation to establish a Criminal Division and division of the Summary Court to be known as the “District Criminal and Traffic Court”. On that journey, it paused to take a little grain of corn, and we put in the second Schedule the Judicial and Legal Services Act. What we put in there is senior before Magistracy, Registrar and Clerk and “we gone”.

Then we returned on March 17, 2020, for more than one grain of corn. We amended sections 2 and 15 of the Judicial and Legal Service Act by Act 8 of 2020, to include Chief Judicial Officer and the terms and conditions, and “we gone” and here we are again. We are here to amend the Judicial and Legal Services Act, among other pieces of legislation, but I want to focus on that piece of legislation. We are amending 35 pieces, and when we are finished, I suppose “we really gone”, but before I do I want to make some observations, ask some questions and express some concerns.

Doing this work, this legislative work, passing legislation, amending legislation, is hard work, and we are always grateful, if I may be so bold as to speak for my fellow Senators, for all the assistance that we can give. One of the areas that we find we are grateful for is the Explanatory Notes that come with the Bill. It makes our lives easier, or should, but in this case it brought confusion. So it therefore created a problem for me.

When we look at clause 7, it says that subsection (1) of the Act is mentioned. It does not name the section, so by a process of deduction I suppose it to mean section 15. The part of the note which promised, but did not deliver, says:

“...and for the removal of the obligation for Masters to report instead to the Registrar but will require Masters to report to the Court Executive

Administrator.”

Now that is so puzzling, I do not know if it was supposed to be a Freudian slip or what. It did not sound like English and that was not delivered in any part in the Bill. I waited to see if the Attorney General would bring some clarity to clear up this wording here, but I am still waiting. So I suppose in his winding up, he will explain how this happened, what does it mean in the Bill. It is irritating and off-putting.

Again, looking at the Explanatory Note, when you look at clause 25 you see that it talks about “bade certificate”, B-A-D-E. I assume again—I am making a lot of assumptions, although I know what happens when you make assumptions. It talks about “bade certificate”, which I assume is “birth certificate”, but when you actually look at clause 25, it says nothing about it, but it was extending the time for something. So if those things could be clarified, I would be exceedingly grateful. It makes our life a bit harder when we have these puzzling areas of the Bill.

Now, I want to focus on clause 7, as I said before. Terms and conditions of the Registrar are set out in section 12(1) of the Act:

“The Ministry of Legal Affairs shall comprise the Departments of Civil Law, of Criminal Law, of Legislative Drafting and of Accounting which shall be headed respectively by the Solicitor General, the Director of Public Prosecutions, the Chief Parliamentary Counsel and a public officer to be designated Permanent Secretary in the Ministry.”

So you have these major offices who exercise functions that the Permanent Secretary, who is also the one who carries out the duties in the Ministry under the general direction of the head, whoever is the Minister designated. So you have those particular persons, and then you have 12(2) which says:

“The Civil Law Department shall include the Departments of the Chief State

Solicitor and...the Registrar General.”

And when we go to 12(3) now it says:

“For the purposes of section 85 of the Constitution a Chief Legal Officer is a Permanent Secretary.”

When you look at clause 7, (1C) it says:

“The terms and conditions of service of the Registrar General shall be equivalent to those of a Chief Legal Officer.”

When we look at the Judicial and Legal Service Act for the definition of “Chief Legal Officer”, it means:

“2 ...the Director of Public Prosecutions, the Solicitor General or the Chief Parliamentary Counsel.”

So this Bill therefore catapults the Registrar General and puts the Registrar General on an equal footing with the DPP, the Sol Gen and the Chief Parliamentary Counsel. So formerly, the Registrar General was a member of staff of the Solicitor General.

I would wish to find out from the hon. Attorney General whether there was any consultation with the Solicitor General on this move, and the ramifications of such a move. Because when you compare the salary for the officeholders who are deemed “Chief Legal Officers”, and you look at the position now, you see there is a disparity of \$3,230. When you look at where the salary groups, the Salaries Review Commission, you have them in groups. So you have L1 for the chief officeholders and you have L2A and B. So between L1, which is the main officeholders as it appears now, and when you look at L2, which is where the Registrar General is, there is, as I said a disparity of \$3,230. When you look at the officeholders below that, you see that there is now, if we pass this legislation, there is going to be a disparity of \$4,950.

I also wish to find out from the hon. Attorney General whether there was consultation with the Salaries Review Commission, the Chief Personnel Officer on the ramifications of such a move. This has serious implication for other officeholders in the judicial and legal service of more senior rank. More important, and whether or not there was consultation, I would wish the Attorney General to share with this Parliament the sage advice he would have been given from the Salaries Review Commission or the CPO in this matter. If he did not follow that advice, I would wish him to explain to this Senate his reason for not doing so.

When we look at clause 4 which seeks to amend the Summary Courts Act to define “video link”, we see the same provision appearing also in clause 35, as an amendment to the Administration of Justice (Indictable Proceedings) Act. So you have both amendments mentioning the persons who are present at the proceedings. There have been studies done in the UK on the whole effect of COVID-19 on video conferencing, so perhaps the Attorney General could look at that as well, because one of the things it speaks about is one of the officeholders here. So let me just go through.

Who is going to be present at the proceedings? You have:

“(a) the Judge”— you have the— “master”—you have the—“Magistrate or Magistracy Registrar and Clerk of the Court;”

You have:

“(b) the parties to the proceedings;”

You have:

“(c) the Attorney-at-Law acting in the proceedings;”

You have:

“(d) any interpreter or other person appointed to assist...”

Apparently there has been some problems in some jurisdictions with the interpreter

being there. I see it as necessary because of our particular circumstances with the heavy presence of persons who do not speak English. Then you have:

“(e) any other person who may be required to assist the Court in the conduct of its proceedings;”

My question for the hon. Attorney General is, how rigid is the list of persons as enumerated in this clause? I ask this because in certain matters the applicant may wish some family member to be present to give psychological support.

I remember years ago I was doing a property settlement; I was for the wife and she was being severely disadvantaged. The husband was there with his mother who had sworn an affidavit in the proceedings. My client alone had sworn an affidavit, but she wanted her parent there and it was refused. Well eventually, she got what she wanted out of the Court of Appeal, but I mean, these things can raise some problems.

I want to refer to the Domestic Violence Act 2007 of Ghana, where there is a provision in section 13(1) which states:

“Proceedings for a protection order shall be held in private in the presence of their parties, their lawyers and any other person permitted by the Court to be present.”

Again, in New Zealand Family Violence Act 2018, it says:

“170 (1) (j) any other people whom the Judge permits to be present”—
may attend a review of contact arrangements.

I would like to suggest an amendment:

Any other person whom the Court permits to be present.

So basically, those are the questions and remarks with regard the legislation.

But I just want to say that persons who work in the Government service are frequently looked upon as persons who cannot do better. We have, like everywhere

else, persons who are dedicated to their job as judicial officers, as persons working in the Registrar General's Office, persons working in Sol Gen and Chief State Solicitor and all of these other offices, who are extremely competent, who are extremely dedicated to their jobs. They have not had an easy time within the last few years, when they have seen persons with whom they were forced to work making huge amounts of money, when they themselves were stuck with a very small salary.

I would ask the Attorney General to look at this, because you have cases of somebody having to amend a one-page affidavit, where another lawyer outside, a private attorney, is being paid \$160,000, and the whole affidavit was no good. So it is very important that you think about the morale of staff who continue to serve and serve to the best of their ability, because they love what they do and they have a commitment—they have a commitment to national service in that way. We do not want anything to happen. They have had it in the past, as you know, and I would hope that you would consider all of this very, very carefully.

The officeholders who are affected—because it is going to affect other officeholders—is there anything that you can do for them as well? Because with all you have spoken many times about the number of criminal courts that are coming on stream, that means the DPP is going to have a great, great responsibility. So one needs also to look and see whether in truth and in fact you can improve the officeholders. Maybe there needs to be wider consultation. I know you mean well, but we do not want it ever to be thought that we are creating legislation ad hominem. We are looking to see that the duties, and you have spoken about it, and you have said that quite a lot has been done. You have said you are here to harmonize legislation across multiple platforms.

So it has not been a very difficult Bill. I could breathe through it, but then

perhaps what you could have said is that it is consequential amendments—make it simpler in language—based on the fact that you have done a series of other Acts, and therefore we have to harmonize them because you need to have things flowing.

So look at the question of whether you are encroaching on the Salaries Review Commission, which is something in the Constitution of the Republic of Trinidad and Tobago. If you are doing it in a roundabout way, look at that very carefully and see in fact whether you are doing it in the right way.

11.45 a.m.

So all in all, I think it was necessary that you are doing what you are doing in terms of harmonizing the legislation, but as I said, I have some concerns. Now, you mentioned that you have spoken to a number of persons about readiness, and perhaps what could have been done, like what was done for the Children (Scotland) Act many years ago when they introduced their new children legislation, that they had an implementation schedule. Had we done so with our Children Act as I had recommended, but I was ignored, we would not have had the problem of having to pay out a lot of money for claims being brought against us because we were not ready for XYZ. So perhaps what you and your staff can do is work out a whole implementation schedule and bring it to the Parliament, make sure that when you put something in place that you are ready to deal with it and you do not have loopholes in the law for people to get rich off the taxpayers.

So, as I said, I hope that everybody would be considered and it is not anything personal, it is for the good of the officeholders across the board in your department and in your jurisdiction as Minister of Legal Affairs to do the best you can for every member of your staff. I thank you, Madam President. [*Desk thumping*]

Madam President: Minister in the Ministry of Finance. [*Desk thumping*]

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Madam President, I thank you for giving me the opportunity to speak on this Bill. As the previous speaker has acknowledged, this Bill covers several bits of legislation, and is seeking to make amendments to those various bits of legislation but, Madam President, I will focus my contribution on those areas that either directly impact or are directly impacted by the two hats that I wear as Minister of Public Administration responsible for information and communication technology and the Minister in the Ministry of Finance.

Madam President, in that context, the clauses that I will focus on are the following. Clause 4, which introduces a definition of “video link”.

“...a technological arrangement whereby a person, without being physically present in the place where the proceedings are conducted, is able to see and hear and be seen and be heard by...

- (a) the Judge...Magistrate,...
- (b) the parties to the proceedings;
- (d) ...other...”—persons involved.

Clause 4(e) which provides for the holding of proceedings via video link.

Clause 4(l) allows for fees and penalties to be collected by the clerk rather than the magistrate.

Clause 4(p) which says that payments may now be made electronically by the clerk to the Comptroller of Accounts.

Clause 35 which allows for indictable proceedings to be held by video link. The original—the clause 4(a) dealt with the summary proceedings, and clause 37 which treats with electronic payments.

Madam President, sometime last year, long before COVID-19 was an issue

for us and the rest of the world, I had the pleasure to be at the launch of the courts' e-service—suite of e-services. It was under the control of Master Morris-Alleyne, and I was pleasantly surprised at the range of services that the courts were launching on this e-platform. It gave a clear indication of where we were heading and what the future of the court operation would be. In comes COVID and we come to the realization that this e-platform, this e-approach to court operations and management and filing is no longer a wave of the future, but it is now. We are forced to expedite and bring forward implementation of these range of services that we were in the process of introducing.

E-payments, we had a debate sometime last year to introduce the concept of e-payments into the courts, so we have already started working on that, but this Bill seeks to allow, among other things, the fees and payments collected by the court to be transferred electronically to the Comptroller of Accounts. This allows for greater efficiency of transfer of funds, it allows for better recording and better tracking of payments which is always a good thing. It makes it easier for the members of the public who are making payments to make the payments remotely, to do so without having to go to the district where the offence was created or the matter was heard, and so it just makes life easier and I see no reason, Madam President, to have any concerns with respect to this particular provision.

Moving towards e-courts and virtual hearings, this is something that the world has been on board with for quite some time. Trinidad and Tobago is a bit behind the board, but as I said, this is something that the courts were preparing for, fortunately before COVID hit. So when COVID became a reality for us and we were forced to go into lockdown to protect the lives and health of the citizens, it was not necessary to cease the operations of the court. We were able to efficiently and effectively continue with those operations and hear hundreds of cases during

the period of the lockdown, despite the fact that we were not allowed to physically congregate in more than groups of five originally, growing now to 25. So the courts have continued to operate, we have continued to operate, and the measures in the Bill that seek to give effect to the e-hearing process is going to allow us in the future to continue on that trend.

Now, there are several benefits arising out of introducing an e-court system, a virtual hearing system. One of those benefits I can say as Minister of Public Administration, as well responsible for real estate owned and leased by the Government, is that it will allow us to reduce our physical footprint. We will no longer in future need the space that we need now, a lot of it very expensive space, to store physical records because we will be receiving our records more and more in virtual form which reduces the need for the storage of paper.

It has, as the AG has pointed out to us on several occasions, it has allowed us to reduce the movement of prisoners which is not only an expensive exercise in terms of money, cost to the State, but it is also expensive in the inconvenience that it causes to all of us as citizens traversing these areas where the prisoners have to attend court. So, on several Fridays or other days when we are trying to get to Parliament or to our offices, we have had to suffer the inconvenience of road blocks, of traffic, because we have a significant criminal case going on and the roads have had to be blocked, the policemen and so on. Moving to a virtual space where the matters can be heard either on the compound of the court or virtually, we move away from those inconveniences.

The hearing, the introduction of virtual hearings is convenient for attorneys. At the moment, an attorney who has a matter in Tobago may only be able to deal with that matter on that day; and what does that cause? It causes the attorney to become less efficient because he has to travel to and from Tobago, he has to deal

with that matter and therefore, he cannot get to another court in Trinidad, for example, to deal with another matter.

Virtual hearing will allow an attorney to more efficiently treat with the range of matters before them, and therefore, hopefully improve the speed and efficiency of justice. This leads to a situation or it should lead to a situation where a client's matter is more efficiently handled because, as I said, the attorneys can deal with more, there is a reduction in the length of time which it will take to deal with the matter and therefore, hopefully justice becomes more affordable to those of us who are challenged now to cover the cost of attorneys and other representatives.

So, Madam President, with the introduction of e-filing it is anticipated that the system of justice will become more efficient and that it will create greater access to all citizens to have their matters heard, heard expeditiously, and heard in a way that they can afford.

E-government, e-transactions, e-payments, have in the not too distant past been viewed as the wave of the future, something that Trinidad and Tobago needed to move towards. With COVID, Madam President, it is no longer the wave of the future, it is a present and pressing imperative for now. We cannot operate outside of the e-space because we do not know how much longer COVID will be with us. We do not know—if we look at countries around the world we see that there are re-openings and then contractions of those re-openings to deal with more cases developing and so on, and so, for an indefinite period going forward, we will have physical constraints on our movements, on our operations, and how we do business, and we cannot continue to operate in the absence of an e-platform. So that is a present requirement.

The Judiciary paradoxically, despite the fact that it is an institution that has been constantly under attack for the inefficient dispensation of justice, is leading

the charge in the transformation to the e-transaction and e-operating space. If we look at all the organizations or institutions that form the Government of Trinidad and Tobago, the Judiciary is the most advanced in the e-space. It has an e-filing system, a virtual hearing system and can track and conduct its business largely on an e-platform. It has made great strides in this area.

And, Madam President, in that context, I will like to commend the Chief Justice and his team for leading this charge long before we realized that COVID was going to become a reality. Under the leadership and direct guidance of Master Morris-Alleyne who has done a very commendable job, the Judiciary has taken us forward into 21st Century in this e-space. This Bill seeks to support the actions they have already taken and continue to develop on.

Now, I acknowledge that there are challenges remaining in the roll out of the technology and a lot of that is probably caused by the fact that COVID was, in fact, unexpected, and we needed to do a more advanced launch than we would have anticipated. So there have been teething issues, there have been equipment shortages and other such challenges, but these issues are being addressed, and as we move forward, as we learn from the mistakes, as we deal with the shortages, as we allocate more funds to the area, we will see the system working better and smoother, and hopefully benefiting all with the objective that in the not too distant future justice will be much more efficient and much more affordable and therefore more evenly benefit everybody in society.

Madam President, another area that I would like to focus on is the provision in the legislation, and I will tell you in a minute what clause it is—clause 27 of the Bill which deals with the value added tax, amendment to the value added tax at section 47A.

Madam President, as everyone in this Chamber will recall, we recently

introduced this amendment of section 47A to allow for the settlement of VAT refunds through the issue of bonds rather than cash, and that exercise has started and is going very well. What this amendment in today's Bill is seeking to do is allow us to—the option of issuing bonds in future as taxable or non-taxable. And when we talk about taxable and non-taxable we are talking about the interest that the Government will have to pay on the bonds; that will either be taxable or non-taxable.

What that does is that it gives the Government of the country the option in the future to control the cost of the interest that they will have to pay on these bonds because they can give the same benefit to the recipient of the bond or the person to whom the bond is transferred by paying, for example, 4 per cent on a bond, the interest of which is taxable at 25 per cent or 3 per cent on a bond the interest of which is non-taxable. And so, it gives the Government some leeway in structuring these bonds, controlling the cost, controlling the outlay that it will have to incur either now through the reduction in taxable income or in the future through the payment of interest, and so that is all this provision is intended to do to, to give the Government more flexibility—

Madam President: Minister, you have five more minutes

Sen. The Hon. A. West: Thank you, Madam President—to give the Government more flexibility in terms of how it structures the bonds.

Madam President, in wrapping up what I would say is that, although COVID-19 has been traumatic and continues to be traumatic, it has given us the opportunity to do things differently, to do things better.

The Judiciary is leading the charge, as I said, in getting us to a place where we do things better. I see a world becoming a reality where justice is more efficient, it is more affordable, and it benefits the society as a whole. These

provisions, Madam President, seek to facilitate the movement in that direction and I highly recommend these provisions in particular and the Bill on the whole to my colleagues of the Parliament. I ask you for the support because there is nothing in these provisions that can be regarded as negative. It is all in an attempt make us more efficient, to get us where we need to be as a society. The Judiciary, as I said, is leading the way. The Government is intended to follow in getting on the e-transaction platform. So, Madam President, I fully endorse the AG's piloting of this Bill, and I seek the support of my colleagues.

I thank you.

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

Sen. Sean Sobers: Thank you, Madam President, for recognizing me this afternoon to contribute to this miscellaneous provisions Bill, a title too long to recite at this juncture. I suspect that others may indulge in so doing, I would not, but it is a very lengthy miscellaneous provision, the majority of which simply here is copying and pasting, taking out certain words, amending some very minor places within the Bill itself. But I would focus specifically on about three or four clauses just to make some light comments in terms of my review of what I saw that may be in wrapping up or even in the committee stage we can have more fruitful discussion.

Now, the first clause which I looked at was clause 4 which sought to amend the Summary Courts Act, Chap. 4:20, and basically it gives power to the Chief Justice to appoint varying locations for the holding of summary courts and designated court locations for the hearing of specific types of cases via summary court.

Now, when I read the clause the first thing that came into my mind, I would recall being a child not more than two years at the point in time, but I recall when

the coup took place in Trinidad that the court system or where the trial for the offenders for that particular period of time took place was at Chaguaramas, and one of the reasons for that is because obviously at that juncture we could not, in best practice, secure persons attending the matter at the Magistrates' Court in Port of Spain. So I do, in fact, see some degree of wisdom in allowing for situations like that to occur.

I think the good Minister West indicated as well too that, we as well when we come to we experience significant traffic delays based upon a particular matter or matters that may be ongoing at the Port of Spain Magistrates' Court, certain measures are adopted to ensure that persons who attend the court and persons within the very near location to the court are not affected in a negative or criminal way.

My only thing when I looked at it, I did not—I think especially for the proponents within the system, the individuals who may be affected that, at least, some degree of consent possibly should have been requested from them if the court matter were to be moved. I do not see, respectfully, any attempt or any possibility, in my humble opinion, that would affect the administration of justice if the court itself, the physical location, is moved to a more secured location if proper reasons are advanced before that actual move takes place, but I think sufficient notice and possible consent with the persons within the matter, the accused, his attorney and whoever else is concerned and directly connected and affected to the matter, that they should also be consulted with before that actual move takes place.

Now, one of the reasons for that, the new location as well too, we should ensure even if it is a situation where possibly the accused may not be physically present within the room, it is not a foreign concept, in civil matters it has occurred in arbitration matters where expert witnesses have to give evidence, in some

instances they live in foreign jurisdictions, so evidence is taken from them via audiovisual recordings and systems, but in some instances if the connection is not good, it is difficult for a person who may very well be asking questions of the witness to glean from that particular witness certain responses in terms of body language or even in terms of just normal audio responses because the system is lacking. So we should also ensure that those systems, the infrastructure for such a situation, is up to standard.

I have been told so far in terms of the audiovisual systems that we have now taking place with most courtrooms that it has been working well. It is a shame that we had to wait for the advent of something as terrible as COVID-19, that pandemic, for us to reach to this position where we have to embrace this type of technology. I am told that many practitioners enjoy it, some of them do so wearing their shirt and their tie and their jackets, and in some instances, no pants; that is what I am told—right?—but they are enjoying it, you know. I wear pants. But I just think that there should be some degree of consultation with persons involved in the system, and we should ensure that the infrastructure is properly in place to facilitate such a venture before we get into that.

Now, I particularly looked at clause 14, and clause 14 deals with this situation where we intend to amend the Defence Act, and basically it is to introduce this whole concept of interdiction. And for the members of listening and viewing public and even for the benefit of persons in this Chamber, interdiction is simply a situation where a person would not, in the army for instance, who hold a particular rank will not be able to benefit from all that the rank would afford him if he was in full commission then. So he may not be able to benefit from the level of pay or emoluments, he may not be able to benefit from getting a driver and whatever else goes along with the rank. And when I read it, I initially found no

objection, and to an extent, I still do not find much of an objection with respect to this particular amendment. I mean, a lot of us who operate in varying professions throughout this country we tend to complain when certain infractions occur in alternative professions, and we do not see any justice, in our opinion, or any significant action being taken against an individual involved in an infraction, and we complain and we indicate all sorts of things sometimes that they operate in a clandestine manner, we do not know what is taking place there. People say that about lawyers all the time. Lawyers, I should not say lawyers, some individuals say it about doctors and so on and so on and so on as the wheel turns. And for some time both the Defence Force and even with respect to the police, persons would have made certain comments. The police service fortunately has gone through significant stages of evolution, and there is a high degree transparency in my humble opinion with respect to a lot of things that place. We have the advent of the Police Complaints Authority, we have the Professional Standards Bureau, you have police disciplinary proceedings internally. So there is a significant degree of transparency afforded to the police service, but in terms of the defence force, I would want to say that we do not see the same situation occurring there.

And from my discussions with certain members of the defence force, they have indicated that there is a particular reason for that insofar as they are governed by military law. And I had a very lengthy discussion with an individual concerning that about this opaque cloud that surrounds the Defence Force and what is military law and what does it entail and who practises there, because we do not know. I mean, I cannot recall picking up any local newspaper within the last couple of years and seeing any transcript or word for word play as to what took place in a disciplinary proceeding in the military or whether or not any disciplinary proceeding has taken place within the military within the last couple of years.

And I was told that the reason for this is because some of their operations tend to take them outside of the zone of normal legal jurisdiction. For example, if there is a visiting forces agreement where some of our military may go to Haiti to assist in peacekeeping, and one of the officers servicemen gets into some type of illegal situation across there, when the serviceman comes back here, he is not subject to the Trinidad and Tobago justice system in terms of the courts. The visiting forces agreement would specify that he would be treated with accordingly through the military.

And so I think because of this cloud of opaque activity, I thought as a civilian reading about a simple interdiction situation that it would have been sufficient. But, I am told—and I had some discussions with the hon. Attorney General and I am certain in his wrapping up he would address them—by some members of the military that there are systems in place already that can properly treat with this situation, but for the fact that there is not sufficient infrastructure in place. And when I enquired what that infrastructure was, the individual indicated that there were insufficient judge advocates that are not available to them, that there are insufficient advocates who are familiar with military law in Trinidad and Tobago, and based upon that you have a very slow pace with respect to military justice being administered to offending officers.

12.15 p.m.

So, hopefully, when the hon. Attorney General is winding up he can address what measures or steps may have been adopted during this administration's tenure to fix or solve those issues within the organization, as well as what may very well be the complement of any judge advocates that may have been hired, how many matters have been held or dealt with during that particular period of time, what is the complement of qualified persons who may very well be able to assist in terms

of advocating these matters within the military as well too, and generally what is the infrastructural needs for the military when it comes to court martialling and what not. And I think that would definitely help both the members of the public and also members of the military who are hearing about this interdiction for the first time, and it may bring some comfort to them because some of them liken this particular interdiction situation to that of the zero tolerance policy, which I think, and as the Attorney General pointed out, it is fundamentally different. As in the zero tolerance policy, there was no real due process, this particular amendment demonstrates some degree of due process, but I still think it would be beneficial to those listening and viewing if some level of discussion could be had so that their hearts could be put at ease with respect to this particular situation.

Now, moving on, I also looked at clause 26, which sought to increase some of the fines and penalties under the wild life Act, and I think for some time now we as a nation have had a lot of persons within the country crying out for an increase in those penalties, and rightly so, in terms of where these penalties are now going to be administered for persons illegally entering game sanctuaries and state lands and hunting during the closed season. It is extremely important for persons to understand why these sanctuaries are set up in such a particular way, to allow our wildlife to continue to exist, especially in that moratorium period when hunting is closed. So, definitely for persons taking advantage of that there should be some type of penalty now running concurrent with such illegal activity, and I think the increase in the penalties are much needed. I would also possibly like to hear, maybe if the Minister of Agriculture, Land and Fisheries is contributing today, he can indicate also what other systems, strengthening of the institution itself with respect to game wardens and other individuals who would be policing such terrain, what other measures have been adopted by the Ministry of Agriculture, Land and

Fisheries during their tenure to assist persons to enforce. Because it is fine that we pass legislation here in this House, but we need to have persons out there with the ability to enforce with the understanding of what they are doing and the proper infrastructure being put into place.

Clauses 30 to 34, the different changes in the licensing committees. I mean, from time to time we have heard about those changes taking place. It is good that we are seeing it now being manifested in legislation. I know in terms of the composition of committees they actually changed for some time now. It has been auguring—

Madam President: Sen. Sobers, you have five more minutes.

Sen. S. Sobers: Yes please, Madam President. And it has been auguring pretty well, I think, in the terms of the secretary and the chairperson now being there as opposed to the magistrate, it would allow the magistrate to continue to do their own work, and the committees are being run at a quicker pace now with hearings being dealt with much faster.

So that the Bill, as many have said already, it is quite voluminous, yes, but, you know, the majority of the Bill really just treats with certain small changes here and there which are needed, I suppose, with respect to strengthening certain pieces of legislation that we have worked together as a Senate to produce, but I would really like to hear from the hon. Attorney General with respect to those issues, specifically with respect to the Defence Force, and even addressing that little situation possibly with consultation when we are moving certain hearings from certain places. With those few words, thank you very much, Madam President.

[Desk thumping]

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

Sen. Saddam Hosein: Thank you very much, Madam President, for giving me the

opportunity to join in this debate, an omnibus piece of legislation, which seeks to amend 35 pieces of legislation in one second reading in this Senate. And, Madam President, we know that the end is near in terms of the life of this Eleventh Parliament. The end is near and the Government has to tighten up some of these administrative issues with regard to these pieces of legislation.

But while time is of the essence, we must also understand that we are interfering with the judicial process and the manner in which the Judiciary functions and operates, especially in light of a pandemic of COVID-19. And we are seeing that some persons may have been not allowed access to the courts for some time because of the pandemic and the closures therein, but action has been taken in terms of having hearings being done virtually. And, Madam President, this Bill in its present form seeks to also put things in place in terms of the summary jurisdiction, because you would well understand that you have the High Court jurisdiction and you have the Magistrates' Court jurisdiction or the summary jurisdiction. And this Bill amends the Summary Courts Act, Chap. 4:20, and the Summary Courts Act acts as that parent piece of legislation that creates the Magistrates' Court and the magistrates, and this is important, because a magistrate's jurisdiction is only extensive to what is given to him by written law. A magistrate finds himself as a creature of statute under the Summary Courts Act. And what I read and what I understood from the amendments by clause 4 of the Bill would be that you are going to attempt to increase the efficiency of the Magistracy through virtual hearings, and also the delimitation of boundaries, per se, when it comes to the magistrate's jurisdiction, the physical jurisdiction that is.

Because, Madam President, you would understand that Trinidad and Tobago is divided into several magisterial districts, and there are various courts in each district that deals with matters that may have arose. So if an offence, for example,

happens in a particular district, for example Port of Spain, that particular complaint or information will be filed in that jurisdiction. Now, this Bill seeks to make it a bit more efficient in terms of if a matter arose from one particular jurisdiction it may be heard in another jurisdiction, and that is one of the first issues I would like to raise. Because when you look at pages 5 and 6 of the present Bill, you would see at the amendment to section 7 of the parent Act, subclause (3):

“...where the Chief Justice considers that having regard to all the circumstances it is desirable to do so in the interest of securing the”—most—“expeditious hearing and determination of—

(a) any case...

(b) ...type of case, the Chief Justice may...transfer proceedings in a”—Summary—“Court from one court location to any other court location.”

So, Madam President, what this Parliament is empowering the Chief Justice to do and the Government's policy is that the only consideration for a case to be transferred by the Chief Justice in the summary jurisdiction is whether or not it is expeditious to do so. Now, Madam President, there must be some more consideration. It cannot be that that expedition is the only factor that should be involved when you are going to transfer a matter. There must be other things that should be considered. When you look at the Civil Proceedings Rules there are other factors in which matters will be transferred based on an application being made to a High Court judge. Now, I saw that this factor that the Chief Justice considers of expeditious hearing is also found at page 5 of the Bill and also at page 6.

So, Madam President, what I am saying is that you cannot at all times just use this as the consideration. Because, in Trinidad and Tobago, you would

understand that there are various interests in society, and, Madam President, I am casting no aspersions on anyone, but we have to face the reality that this can lead to some level of forum shopping, and this is something that should not be happening. Because, in the Constitution you are guaranteed to a fair hearing, and in this case if, for example, any person who holds that office of Chief Justice he will now be able, maybe, by transferring a case to influence the outcome of a particular matter.

Madam President: Sen. Hosein, I really do not think you should be saying that. I think you are infringing on the Standing Orders, so I will ask you to withdraw it. Try and present your arguments a different way.

Sen. S. Hosein: Sure. Madam President, I cast no aspersions and I do withdraw that statement. What I am trying to say is that any office holder in fact, because you are looking at a judicial officer who holds a lesser office than the Chief Justice who is a magistrate, and you want to ensure, Madam President, that no influence or no pressure is being placed on these judicial officers who are considered as magistrates to decide any particular matter one way or the other, and that is the point that I am making in this particular legislation.

Also, Madam President, you would see at page 8 of the Bill, which continues with the amendment to the Summary Courts Act, it deals with the transferring of cases again by the Chief Justice in certain circumstances, and this amends section 13A of the Act. And, if you would allow me, Madam President, at 13A of the Act it deals with the Director of Public Prosecutions under cases that fall under the Dangerous Drugs Act. The Director of Public Prosecutions can in fact request to the court that the case be transferred based on expedition also. So at that particular provision, what I am saying here, Madam President, is you are giving the Chief Justice an additional power. Because, originally at section 13A, it

is the Director of Public Prosecutions who makes the application in matters of dangerous drugs to transfer matters from one jurisdiction to another within the Magistracy. In this case you are giving the Chief Justice the power to transfer any case to any jurisdiction within Trinidad and Tobago. And the point is that when you look at section 56 of the Act, section 56 where we are going to amend also, it talks about a different factor that the court considers and that factor is, Madam President, in the interest of justice. So there is a bit of inconsistency within the Bill, because at section 56 when you are looking at the transferring of matters, you look at the interest of justice, but in the others you are looking at the expedition of the case. And that is something that I ask the Attorney General if he can give some clarification on in terms of whether or not we can apply some consistency going forward with respect to the factors that the court or the Chief Justice can take into consideration before a matter is actually transferred.

Now, another very important issue I think we need to realize here, is the amendment to the Petty Civil Courts Act. Madam President, if you would allow me, the Petty Civil Courts Act now has jurisdiction which a magistrate who sits in a civil capacity, because they wear different hats, and the magistrate sits in a civil capacity to determine matters of a civil nature, and they can determine cases up to \$50,000; \$50,000. Madam President, would you know, that sometimes a person has to wait almost six to eight months for one case management hearing in the Petty Civil Courts. Madam President, this particular court deals with persons who may have conducted businesses, offered services for under \$50,000 and they have to go to court to get some level of remedy, and therefore these persons have to wait so long. So there must be something done in order to treat with the inefficiencies in the system when it comes to the Petty Civil Courts because in the High Court, you would understand that cases flow a bit faster, that cases, because of the Civil

Proceedings Rules, flow a bit faster, that most matters are settled in fact. But in the Petty Civil Court, per se, where most of the persons who are small contractors, small businessmen, go to that court to enforce a contract are disadvantaged because, one, your claim falls under \$50,000; and two, the system is bad. So, those are the issues that the small man on the streets face with regard to these matters.

Now, Madam President, I hope that when this Bill is passed, because the Government has the inbuilt majority in the other place, and if they get the support of this House, that this really helps the people of Trinidad and Tobago access justice. And they must access justice at both levels, at the civil side at the Magistrates' Court and the criminal side of the Magistrates' Court. The system has to work because, at the end of the day we cannot continue to do the same thing over and over and expect a different result. These virtual hearings can in fact cause some level of efficiency but we must not look at expedience to trump through justice. Because I could tell you for a fact—Sen. Sean Sobers raised it a bit earlier—that some persons in fact prefer cases to be heard in person, and I would say that because when you look at a criminal trial proceedings, one of the most important things that you do in a courtroom is to examine the demeanour of a witness. And during a virtual hearing that is something that you may not be able to properly examine to determine whether or not the witness is a witness of truth or whether or not the witness is being untruthful. So, those are things that we have to consider. I know that may fall within the jurisdiction of the judicial officer in terms of his case management power, whether or not those trials should be held in person or whether it should be held virtually.

Now, Madam President, while this Bill comes at this late stage, who knows, this may be very well our last sitting in this Parliament, and I want to say, Madam President, that you can bring 35 Bills—35 amendments in one Bill, you could

bring 100, you could bring 200, when we go to the polls the United National Congress will form the next Government of Trinidad and Tobago. [*Desk thumping*] Because for far too long, Madam President, they had five years, they promised the persons for five years and they did not deliver. We are saying on this side, that we will work for the people of Trinidad and Tobago, and we will get Trinidad and Tobago working again, and through you I look forward to meeting my friend, Sen. Williams, on the campaign trail, and I thank you very much, Madam President. [*Desk thumping*]

Madam President: Sen. Deonarine.

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to contribute to the debate on this Miscellaneous Amendments (No. 2) Bill, 2020. Today my contribution would be very short and would focus primarily on clause 27 of the Bill which treats with the amendment to the Value Added Tax Act.

Now 47A, the amendment actually amends section 47A, and this section was introduced into the Value Added Tax Act earlier on in this year on the onset of pandemic restrictions. So, this was introduced to allow for the Board of Inland Revenue to meet the tax liability through the issue of the VAT bonds, and in issuing these VAT bonds we were issuing VAT bonds that are interest or non-interest bearing and also bonds that are transferable or non-transferable. So this amendment includes an addition to allow for these bonds is to be taxable or non-taxable. The Attorney General and the Minister in the Ministry of Finance actually alluded to the fact that on the initial issue of the bonds, the VAT bonds worth \$3 billion it would be tax exempt, that is, the interest incurred on holding these bonds would be free of interest.

But, on examination of the regulations that were laid in this honourable House, Madam President, it was laid in May of this year, and the regulations

prescribe that the bonds are actually going to be transferable, and it is going to be transferable to financial institutions with the exception of credit unions. So my question, Madam President, is: Would the tax exemption alluded to by the Attorney General and the Minister in the Ministry of Finance apply to all holders of the bond? Now, I know the details would probably be prescribed further in the regulations again, because there would probably have to be another amendment to the regulations, but it is important to know whether the VAT bonds would continue to be non-taxable when it changes the hands of the initial bondholder. And not only for this issue of the initial \$3 billion worth of VAT bonds, but also for any subsequent issues given that section 47A allows for up to \$6 billion to be issued in VAT bonds.

By amending the law to say that these bonds are taxable or non-taxable, it also leaves room for future issues of the bond to be taxable, and this to me sounds a “lil bit” inequitable, especially when these bonds are being issued at par value rather than at a discounted value to persons who would have been owed tax liability. How I figured it would have worked, Madam President, is that the initial holders would have been exempted from taxes on the interest of the bonds, and then when it would be transferred to financial institutions the bond becomes taxable as these persons are not owed any tax liability because when these bonds are transferred to financial institutions, with the exception of credit unions, they are now going to be traded on the secondary market, where it is now traded solely to generate income and as a source of return on investment. Financial institutions at this point could strip the bonds and trade them at this point. The purchases of these bonds on the secondary market would not be persons who are owed any tax liabilities, so there is an opportunity to tax the bonds at that point in time. However, the initial holders, the initial bondholders of the tax—of the VAT

bonds— should not be taxable either at this point or any future issues of the VAT bonds. So, whichever case it may be right now or subsequently, I just seek clarification and maybe it could be explicitly stated in the law.

Now, before I wrap up, Madam President, there are three key things that I want to mention with respect to this same clause 27, and I want to caution the Government in the sense that this bond would be due in 2023, and the Government would need to repay this principal in 2023, a total of \$3 billion which accounts for 2 per cent of GDP. But interestingly, Madam President, just in the recent reading of the midterm review of the budget, the Minister did indicate that in 2023 they are also setting a target to reduce the debt to GDP ratio to around—to pre-pandemic levels at around 63 per cent, which is a reduction in the debt to GDP ratio of approximately 10 percentage points. That is moving the net public sector debt from \$111 billion to \$103 billion according to latest Central Bank figures. I just want to remind the Government that these moneys to repay this bond in 2023 must be put aside within the next year to ensure that this bond is repaid, because the last thing that we want, Madam President, because obviously, yes, the Government will repay the bond, but the last thing we want is that this target of reducing the debt to GDP ratio to 63 per cent becomes a moving target just like how the target to balance the budget has been a moving target for almost the past 10 fiscal years.

Another thing that I would like to mention, Madam President, is that we have to ensure that a situation like this does not happen again. It does not repeat itself. It is not fair and equitable to have businesses being owed these tax liabilities and no interest is being accrued. Now I know there is an interest being accrued on the bond at 3.3 per cent, however this 3.3 per cent would be accrued going forward, in the three years going forward, and at this point in time they are being issued at par value and not at a discounting value. Right now the law is stated in

such a way that the method of reimbursement of tax liabilities would be chosen by the Board of Inland Revenue or the Minister in this case, and what I am saying is that, we could provide—make some provision to allow for the taxpayer, the businesses who are filing these VAT returns to choose an option as to whether they would like to be reimbursed via cash or via VAT bonds. It should not be entirely up to the Government only.

Now, the Government always, in some sense over the past couple years, fiscal years, has been strapped for cash, even before COVID-19 pandemic. There has been a large amount of VAT returns every year versus the amount of revenues that comes in on a quarterly basis that are meant to meet these VAT obligations. So going forward, instead of having to build up over a period of time, maybe we could really just give these taxpayers an option, a cash option or a bond option. Smaller businesses would benefit from this in the sense that, yes, they would most likely require a refund of a smaller amount, but however are the ones who would need the cash liquidity in their businesses faster or much more than the larger businesses who could probably have opt for 25 per cent in cash or 75 per cent in VAT bonds. So what that would do, Madam President, is that it would allow us to develop a system that benefits everyone in getting a higher return on an initial investment. You also have a situation where the Government also would receive cash on a regular basis, and we should probably take into consideration making provision of this in the law going forward.

The last thing that I want to mention, Madam President, is that in making sure that this situation does not repeat itself, some way or the other we need to make some provision to introduce a time limit and a penalty that would be built into the law that holds the State or the Board of Inland Revenue responsible for late reimbursement of taxes to businesses. Just like interest is accrued to businesses

and individuals when we pay taxes late, in the same way VAT returns, the Government should be reimbursing—once they are late, they should be reimbursing with some sort of interest.

With those few words, Madam President, I would like to thank you. [*Desk thumping*]

Madam President: The Minister of Trade and Industry.

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you very much, Madam President. You caught me a “lil” off guard there. Thank you. Sen. Mark, time to breathe. You are going to have a lot of time to read coming up soon. Okay? Let us go into the Bill. Again, we are here because we are seeking to make amendments to 35 pieces of legislation. I will comment on just a few. But again, generally, these amendments will seek to tighten and to improve and to make right and to fix several pieces of legislation. Some of it is quite straightforward, some of it really seeks to modernize the legislation, and it is those few that seek to modernize and improve legislation to the point of where we are speaking about technology improvements, I would speak to those.

So, Madam President, I go straight into clause 17 of the Bill which seeks to amend sections 7, 8 and 9 of the Register General Act. The AG would have spoken to it fleetingly, and I just want to expand a little bit on it.

12.45 p.m.

So the amendment for section 7 will now make provisions for electronic payment for services rendered by the Registrar General. Let me say that the Registrar General’s Department oversees civil, land and commercial registration in Trinidad and Tobago and it maintains the national archive of births, and adoptions, marriages and deaths from time immemorial. It also records land titles and maintains the register of companies and businesses. And therefore, this kind of

amendment will allow for electronic payments for any of all of these services mentioned above. And of course what this does, it actually makes it a lot easier and efficient, allowing for saving time for many of the homeowners and citizens and businesses in general who will seek to access any of these documents. It just makes it so much more convenient and less time consuming.

Clause 17 also seeks to repeal section 8 of the Act and put a new section which requires the Registrar General to keep a true account in an electronic or other form of all fees received and the names of the persons, the services, dates, the transactions occurred and so on. And at the end of the month the Registrar General must certify and correct a transcript of the accounts for the month.

The amendment to 9(1) seeks to expand the days in which the Registrar General will not be conducting business to the public and currently the opening hours, Monday to Friday, 8.30 a.m. to 3.00 p.m. except Saturdays, Sundays and public holidays. And the new section keeps the same opening hours but expands the exceptions to Saturdays and Sundays, pretty much what exists now but it puts it into law, Carnival Monday and Tuesday, public holidays and so on, the next working day after Christmas Day, Monday and Tuesday after Easter and any other day as the Legal Affairs Minister may direct. So all—again, this is just about tidying the legislation and getting it right.

Again, as we speak about the entire matter of electronic payment, Madam President, which is all about clause 17, these e-payments, really very, very needed. These are really what we referred to as the payment for goods and services via the internet and it includes financial transactions using electronic devices, like your computers, or your phones or your tablets, and all of these can be used, using your credit and debit cards and bank transfers and so on. Again, all of this is very user-friendly and this it secures the online interface for businesses and individuals and

this just amplifies what is already in use in terms of—for example, the TTBizLink which is our—it is the single electronic platform for business and business services.

So the inclusion of the electronic payment at the Registrar General, again, is a very important step as I wish to emphasize once again, quick, convenient, efficient. And it means that you can apply online and pay for your—you can certainly pay for your birth and death and marriage certificates online and no need to go into the Ministry of the Attorney General and Legal Affairs office and I think the service is very efficient as it is now. You can actually—all of the documents delivered straight to your home via TTPost.

You may also know, may or may not know, Madam President, that the property and investment management system, and also the Land Registry at the Registrar General's Department can now be accessed online. And this project was completed and allows one to search the digitized Land Registry records for information of land title, documents, deeds and bills of sale and judgements and dependents and deed polls and so on. So again, we want to commend—I heard somebody commending a lot this morning the Judiciary for the work that they have been doing and I want to say that we want to commend our hon. AG and the staff at his Ministry for making all of these services available to the public. Again, ensuring that we have seamless transactions and very user-friendly transactions.

So I want to go directly to, as we are talking about e-payments and so on, I want to go to clause 21 which has to do with electronic signatures. Clause 21 of the Bill seeks to amend section 32 of the Electronic Transactions Act to remove the word “accredited” and substitute the words “as provided for in Regulations established”. So that this section will now, the new section will now read that:

“An electronic signature that is associated with an electronic authentication

product issued by an Electronic Authentication Service Provider”—as provided for in Regulations established—“under Part V (hereinafter referred to as a ‘qualified electronic authentication product’), is deemed to satisfy the requirements set out in section 31 for reliability and integrity.”

And you may ask what does reliability and integrity mean. And the criteria set out for reliability and integrity pertaining to all of these electronic signatures are as follows:

- “(a) the authentication technology uniquely links the user to the signature;
- (b) the signature is capable of identifying the user;
- (c) the signature is created using a means that can be maintained under the sole control of the user;
- (d) the signature will be linked to the information to which it relates in such a manner that any subsequent change in the information is detectable;”—and giving certainty—“and
- (e) such other criteria as may be prescribed by Regulations.”

So this electronic authentication product means a product designed to identify the holder of an electronic signature to another person. And again giving certainty to the entire transaction using the electronic signature. The clause also seeks to amend section 33 of the Electronic Transactions Act by removing the word “qualified” from the electronic authentication product. And this section requires that any person who wishes to use an electronic authentication product for the public must be registered as an electronic authentication service provider by a designated authority on order of the Minister.

And these amendments will further facilitate and support the ongoing digital transformation projects across government to improve the general ease of doing business and certainly it was a great help during COVID. The Minister in the

Ministry of Finance, the Minister of Public Administration spoke about that, the ability to use—I can tell you from the Ministry of Trade and Industry, I worked from home and I used the electronic signature for all of my correspondence and so on, and very widely we used a number of electronic services to take us through as a Cabinet and as Ministries through the period.

I just want to go to—speak a little bit about clause 29 of the Bill which seeks to amend section 492 of the Companies Act extending the period in which the registrar may hold a name for a company from 20 to 45 days upon request and for the payment of prescribed fees. I just raised this, again, because it applies for business as well. This extension really affords companies, whether they are new or they are changing ownership and name and so on, but it gives you the time to get all the paperwork together and all the necessary requirements that will be required to be put in place.

I go straight to clause 28 and we speak always about diversification of the economy and clause 28 relates directly to the yachting industry in particular. I can go to—

Madam President: Minister, you have five more minutes.

Sen. The Hon. P. Gopee-Scoon: Yes, sorry. Thank you—relates directly to the yachting industry. And I go particularly to section 264 which would—I go particularly to that part because I am not sure, but I think it is section 264 which empowers the Minister by order to prescribe forms required to be used for customs laws and so on, removing the authority from the comptroller. And I want to talk in particular about the situation with the yachting industry.

We have always not been able quite to get the kind of business. At one point we had it, but we lost the business to St. Lucia and Grenada, largely because those are very, very attractive places, destinations. So largely yachties are attracted to

going there. But also because our whole process of admitting yachties into the country was very complicated. So that you required for the filling of some 13 forms and what we are suggesting now is that we would be going with one form. I know that it is almost ready, all of the agencies involved, including the Ministry of Agriculture, Land and Fisheries, Ministry of Health, the Customs and Excise Division, and the Ministry of Finance, anybody has anything to do including addressing matters of firearms and so on. Anybody having—any Ministry or agency having anything to do with it, has been meeting with the Attorney General's Office and in preparation so that we can have this one form which would be used for yachties once coming into Trinidad and Tobago. And that is what we need.

We keep talking about ease of doing business and all of these elements are included under that. This is an industry that can grow. It is unfortunate that COVID has denied, dealt us a blow and denied the entry of yachties into Trinidad and Tobago, after all we have been looking after our nationals more than ever, but we are committed to this industry and therefore I am sure within the passage of time you would see that we would probably move to getting this industry going again. As I said and the AG would have announced it too, we are below the hurricane belt, we have a number of skilled craftsmen and that is the advantage we have against the Grenadians and St. Lucia and these people are very skilled in repairing these yachts and boats and so on, and we want to make sure that we can create an entire eco-system. The eco-system exists as it is with all the hotels in the northwestern part of the country, the peninsula. But I mean, all of these skilled craftsmen are part of the eco-system and we want to make sure that this is going.

And, Madam President, I have very little time but I just look forward to us having this fully cash less society, having benefits in terms of reducing cash

handling and increasing the speed at which we do business, increasing, of course, and when you do that, the ultimate thing is that we are able to increase our taxes and our tax collections as well. We are looking forward to this age of full digitization of our economy and it will certainly pay huge benefits to us all and as I said what we do in the Ministry of Trade and Industry through the TTBizLink it is a building block towards this entire thriving digital economy.

We are looking forward to greater online payments, the opening up of greater e-commerce especially for the small businesses themselves where they are able to take their business to another level regardless of size. I mean, the future of technology is great for us and we look forward to this entire process—system as it seeks to improve all industries including agriculture, manufacturing and so on, it is all about scale and becoming competitive and so on.

So, Madam President, as I close, I am happy to speak on those few amendments that really spoke to electronic services and, of course, the other amendments given really seek to define and to make good several other pieces of legislation. Madam President, I wish to thank you. [*Desk thumping*]

Madam President: Hon. Senators, at this point the sitting will be suspended. Before the suspension two things: one, when we resume I am hoping that there will be at least 10 Senators in the Chamber; and two, any Senator who has any amendments, if you could please work on the amendments with the parliamentary staff now, so that we can have a smooth functioning of the committee, all right? So this sitting is now suspended until 1.30 p.m.

12.59 p.m.: *Sitting suspended.*

1.30 p.m.: *Sitting resumed.*

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

Mr. Vice-President: Sen. Chote.

Sen. Sophia Chote SC: Mr. Vice-President, thank you for the opportunity to speak on this miscellaneous provisions Bill. I did my quick calculations and I realize that I have 32 seconds to speak on the amendment for each Act, so I think it follows that—and I do look rather accusingly at the Leader of Government Business as I say so, since it means that I have to cut short what I may have to say with respect to some of the proposed amendments, but I will try to do my best. I will not be able to address everything that I can but I will certainly try to address as many of the things as possible.

Now, it could be, I am first looking at the electronic payments into and out of court amendment which is to be found right at the back of the proposed Bill; it is at clause 37 amending section 14(2). And I am afraid, I could not find the amendment that this was supposed to be applying to, because it was talking about 14(2), but the 14(2) which I was finding on the laws did not contain the word “required”. So perhaps this is just an error in numbering and maybe it is somewhere else in the legislation.

Secondly, Administration of Justice (Indictable Proceedings) Act, well, I have quite a bit to say about this. Now, I think the impression is being given that since the shutdown for COVID-19 that the electronic systems which have been put down in the Judiciary have been working well and that cases are being processed as usual or at least with minimum slowdown. I place this on the record, that in a notice sent to the Law Association, to all attorneys registered with the Law Association, it ought to be noted that unless you are contacted by a court as a litigant or your attorney is contacted, and unless your case deals with domestic violence, maintenance, custody or the proceeds of crime, then your matters have been adjourned by notice. And some of these matters, and this has been going on since the 17th of March, 2020; some of these matters have been adjourned as far as

the 16th of September, 2020.

Now, we heard no data from the hon. Attorney General with respect to these amazing successes which presumably have occurred using electronic systems. Let me speak as a practitioner. If you are doing a case in the Court of Appeal, that is fine, electronic systems work well. If you are doing a case where your client is remanded in custody, it depends on the prison. In one prison it is a container which is the room where the prisoner is simply held. There is no indication that the prisoner can hear properly and certainly there is nothing put in place for you to speak to the client, because everything is live, it is done in the presence of a prison officer. So there is no possibility of speaking to your client.

So we have had, I have had the experience of appearing before a judge, before a magistrate and also before the Court of Appeal. So I can say that while we have the impression that all of these things were rolled out and they are working well, they are not, at least from my point of view. And if other practitioners disagree, well, then that is their opinion but that is just the way I see it.

With respect to normalization, a stakeholders meeting was proposed only last week for a return to the courtroom. And I suspect we will realize that courtrooms in the first place were in an unacceptable state and this is why it is increasingly difficult for us to return to the courtrooms post-COVID. Now, electronic filings. While we are made to believe that electronic filing is all that it is, there are some instances where you can file documents on the platform used and instances where you cannot. So, in a probate application if you have filed your application, if you need to put in a supplemental document you cannot put it in on the same application. Do not ask me why, but I am just telling you about my experience as a practitioner. So it appears as though, I do not know if it is one

system that is being used, one platform, but certainly the outcome seems to be different for different departments of the Judiciary and for different courts.

For the Magistrates' Court at least in Port of Spain, what you will find, and I am able to speak about this because many of the persons who spoke on behalf of the Government have spoken as if the electronic system is working well and this is just to tweak it to make it work even better, not so. I can personally say that magistrates are allocated particular periods of time. I had the really embarrassing situation of appearing before a magistrate on a certain occasion only to realize that the poor lady had run out of her time and the other senior magistrate was already on screen. And that was as far as we could have gone for that day.

So it appears as though magistrates are using one, I suppose, electronic room for the hearings. Surely that is not good enough in a court room where you have 11 courts on average with cases to be heard. And this is at the end of COVID. So this is happening after we started, after the shutdown, March, April, May, we are now at the end of June. So those are my comments with respect to that. I am afraid that I have to disagree with the Minister in the Ministry of Finance with whom I like to agree, but unfortunately I cannot join her in the praises of the system as it exists because I have actually experienced what happens under it.

I want to refer in particular to what is contained at page 46, it is clause 35 and it talks about the insertion of a subsection (4):

“Proceedings under this Act may be held by means of a video link and the record of the proceedings shall be in accordance with the Recording of Court Proceedings Act.”

Okay, I think as it stands now, proceedings in some cases may be held by video link with the consent of the accused person. And some of the accused persons have not been consenting simply because of the distance that they feel

from their attorneys-at-law who are physically not present, who are not able to advise them and so on, and this would allow a court to say, “in spite of your failure to consent we can go ahead and have such a hearing”. And I do not think that is right, I think this may affect due process. I may be wrong but that is the situation.

In addition to which, it refers to the recording of Court Proceedings Act. That is basically like a one page Act and all it says is that what is recorded, the audio transcript of what is recorded shall be certified and this shall be the record of proceedings for the day. This does not cover what happens, let us say, in a criminal trial where you have documents for prisoners to sign and so on and so forth. So this really does not do much more than to say—than to take away the ability of the accused person to say, “I would prefer not to have my case heard by video link”. And it does not put in any other protection therein.

Now, if I may move very, very quickly, if I may move to page 19, Sentencing Commission Act, clause 6, deletes the words “and Chief Magistrate”. Well, poor Chief Magistrate, I cannot see why the Sentencing Commission now should not send its reports to the Chief Magistrate. The Magistracy plays—does half of the sentencing within the Judiciary. And do we really need to have legislation to say that that the Chief Magistrate shall not receive a report from the Sentencing Commission? I find this to be entirely unnecessary and not for the public good.

Secondly, this is followed by clause 7 referring to the Judicial and Legal Service Act. It seems as though the intention is to remove the Chief Magistrate’s input and instead have the Court Executive Administrator play a role in this. Now, the hon. Attorney General spoke about this in his opening and perhaps there is more to say when he wraps up. Sentencing Commission as I understand it is an independent body, true, it may liaise with the Judiciary’s Educational Institute, that

is expected, but the idea of the institution harmonizing with any group within the Judiciary or out of the Judiciary I think is entirely misconceived. So I would respectfully like to know, what was the thinking behind considering an independent institution as now having a member of the administrative staff of the Judiciary, I suppose as its liaison? I am not sure if that is what I understood the hon. Attorney General to be saying, but certainly I see absolutely no role there for the Court Executive Administrator. No role for the Court Executive Administrator in the Sentencing Commission. At the end of the day the Court Executive Administrator sentences nobody. So let us in our rush to get through this piece of legislation brought late in this Session and which allows 29 seconds for discussion, let us not miss points which are important and which need to be said. I am not here running for office and I am not here seeking favours from anyone when I make these points.

Now, page 23—I beg your pardon, page 21, I see now that we are allowing the Magistracy Registrars to fix and grant bail and I am not sure quite sure how this will work because it would mean that the official who is supposed to be approving the bail is now being allowed to grant bail and fix bail. I think that there might be an error there or some sort of conflict of interest, I do not know but perhaps we could look at it a bit further or there might be an explanation as to why that is considered appropriate and reasonable.

1.45 p.m.

Clause 12 talks about where the accused person is committed for trial and he is in prison, and the warrant of commitment has to be sent to the prison. May I respectfully just suggest that we should have a time limit on this and that provision should be made, if need be—because I did not have time to look at this properly—for him to make the application for bail if the offence is a bailable one at the time

of commitment.

Now—

Mr. Vice-President: Senator, you have five more minutes.

Sen. S. Chote SC: Thank you. Right, Mental Health Act, page 11 I think it is, it talks about a representative of the Judiciary being included in this, in clause 16, and I disagree. I will move on very quickly because there are other things I want to say. Court locations are now designated locations. It seems to me as though this has to be read very carefully because it means that we are talking about court locations as opposed to courthouses. Are we going to have less courthouses? If so, say so, do not try to do it by sleight of hand. Some of the instances—some of the people who normally go to the courthouses, Moneylenders, Pawnbrokers, dealers in precious metals and stones, Old Metal and Marine Stores, people who go for licences for cinemas, Registration of Clubs, Theatres and Dance Halls Acts, all of these people are now covered under the Municipal Corporations Act. So it is that they are being taken out of the context of the Magistrates' Courts, and if so, is there a separate body which is being formed in these municipalities to deal with these licences?

Now the electronic payments, I know that there has been—well, I understand that there has not been consultation with the Law Association of Trinidad and Tobago on these matters. I also know that there had been some sort of issue about electronic payments or the use of the court pay system for the payment of fees by lawyers, practising fees by lawyers. I do not know if this has been resolved in any way, or whether this legislation, this proposed amendment, is a way to avoid dealing with the Law Association's concerns and simply legislating for it. As I say, there is not enough time for me to discuss this during the allotted time period. It is just too much. I simply ask the question and hope that the hon.

Attorney General, in his wrapping up, may be able to provide some clarification and also some statistics as to how the court cases have been running since the start of the COVID.

I agree, I do not think that this wide power should be given to any Chief Justice to move matters from court to court because that allows allocation by choice instead of the direction we have been going in the High Court, which is to say via the docket system where you have an electronic system which you have the algorithms worked out, who is going to get which case. So I do not see if we have that operating in the High Court, why we should be widening the power of the hon. Chief Justice, or any Chief Justice, to move cases. In cases which have needed to move in the past, like part-heard matters before magistrates, these have been moved by the magistrate himself or herself making an order. It is not mind-boggling, it is not rocket science.

So I think to effect what we want to effect, we do not need this kind of proposed amendment. Mr. Vice-President, I cannot start another topic because I would not be able to finish. So thank you for the opportunity to speak. [*Desk thumping*]

Sen. Dr. Varma Deyalsingh: Thank you, Mr. Vice-President, for allowing me to partake in this discussion here today. I must say 35 pieces of legislation it is a lot to go over, but it is like piecemeal that I think that the Attorney General says that he wanted to at least put certain things in place to expedite to get a proper running of some pieces of legislation. I heard certain objections made by some Independent Senators and also the Opposition of certain parts of the legislation. So first I might say, just going through quickly, I would like to look at certain aspects of it and I would say, I looked at clause 4(e) which tried to introduce four new subsections into section 7, and this is actually looking at the Summary Courts Act

where it was mentioned that it empowers the Chief Justice to:

“(2) (a) designate court locations...for holding...Summary Courts...”

And the Chief Justice has now the ability to:

“(3) ...transfer proceedings...from one court location to another court location.”

The new subsection (4) provides for the holding of proceedings by video link and, further, a matter held by the video link is deemed to be held in the district where it was filed or from it was transferred according to the new subsection. So we have realized that the video link is the way forward. We have realized there are advantages of it, but the danger mentioned, or the perception that was mentioned, both by my learned colleague just now and also by Sen. Wade Mark, was the ability for the Chief Justice to just transfer, transfer from one court to another. In the past, we have seen during the trials of the attempted coup, there was a court set up in Chaguaramas. So we have known that courts could be transferred, the power is there, but the fact we have to see is that clause 4(f) amends section 8 of the Act to make clear that the Chief Justice is authorized to assign not only magistrates, but also justices and clerks to districts of court locations.

So we have to look at, could this serve as an advantage? And I say in certain cases, yes, because sometimes certain courts, the physical infrastructure, may leave much to be desired and, for instance, if there is a court where the attorneys complained that it is run-down, there may be bats in the ceiling, bats, pigeons, whatnot, you could have that ability to transfer. So there is an advantage. Is there a disadvantage? So again, we have to look, the disadvantage really may be to the individuals that live in that area, because remember courts were put in districts so people can have easy access to them. So if you find I am living in Tunapuna and I am going to access the Tunapuna court, I would feel a bit aggrieved if I have to

leave Tunapuna and go to a court in Port of Spain. Similarly, a lot of the attorneys have their offices close by so they could attend to that court and see that matter. So therefore, there are disadvantages. There are disadvantages and advantages, I see if the court is really—let us say, the court is flooded out, you can move that court location.

Video conferences, it is something that you can look at. However, the problem that seems to arise is the fact that in—you know, when I looked at clause 4(j)(i) it proposes to amend section 13, authorizing the Chief Justice to also:

“...‘reassign the Magistrate or Justice...’”

In cases where the magistrate or justice is a party, or has a personal interest as well as designating another magistrate or justice to the case. Mr. Vice-President, I thought in cases like this if a magistrate has an interest in a matter before, he would have declared that interest beforehand and able to say that I am not able to sit on this case. So at least this sum brings in to a fact that probably after a case is started, you may have cases where somebody may draw to the attention that the magistrate has that personal interest, because I always thought a magistrate would have that power to recuse himself in cases like this. So it begs the question is—who determines what is a personal interest in this matter? How do you judge that? How would you now determine that for the Chief Justice to decide, look, I am moving it from magistrate X and putting in to magistrate Y?

So taking a case from one magistrate, put to another magistrate, I guess if there are interests involved and persons raised that red flag, the Chief Justice may step in. After all, he is the head of the Judiciary and things have to function under him. However, we should have a system in place where people may not be able to point fingers at the Chief Justice and say, “Look, you are just moving one case to one magistrate to another magistrate”, as was brought up here today. So what I am

saying, Sir, is I think, you know, sometimes moving a case from one magistrate to another magistrate, if there appears to be a level of interest is something that could go both ways. It could go with finger pointing of the Chief Justice in interference, it can go with the fact that some people feel they have a greater degree of being able to—justice in their case. For instance, there is a well-known saying, “a good lawyer knows the law but an excellent lawyer knows the judge”, and I am hoping my colleagues here in law do not look at me in any strange way, but that is a saying that it has.

So basically what you are trying to say is that if you know a magistrate in an area, he may influence, he may, just that appearance. So therefore, the fact of rotating magistrates is something that I think is a good idea. The fact that the rotation of magistrates should be in such a way that it could be a number system. There is a list of names and you pull a number, there is a list assigned to the magistrate, so no one could actually impute any improper motives to the Chief Justice, because I remember it was in the public domain recently where a certain judge, who was assigned to Tobago, made a lot of comments in the media that it was unfair and whatnot. So to prevent things like this, there should be a clear case of assignment, that you pull something out of the—you have numbers that you can pull out assigned to judges and say, “Okay, you are assigned Tobago, you are assigned to south, you are assigned what,” and you would be rotated, and in that way there would be no sort of allegations or pointing fingers that something is amiss. So I am thinking, having a system like that would in a way protect the Chief Justice also from any sort of untoward comments.

I also looked at clause 4(n) of the Bill which seeks to amend section 19, which now provides—the clerk may sue in the High Court to recover moneys paid to the justice or constable that were not transferred immediately to the clerk, and I

am thinking that word “immediately”, we have to appreciate that we are dealing in sometimes where people may be unemployed and it is a bit difficult for some people to probably come up with certain moneys. So I am thinking somewhere we have to put something in place where we may have to protect the public who may not have the necessary funds to pay and now will have to fork out money if they are sued to pay for an attorney fee for that matter. So some system has to be put in place where we could take that into account for the unemployed persons who will have to pay.

I looked also at clause 4(p), and clause 4(p) actually also introduces a new section 21A, which provides that a:

“...Court may”—order—“such administrative fees as the Chief Justice may... determine, for the cost associated with...”— the administrative process such as:

“(a) filing...

(b)”—and—“...service of documents;

(f) the use of mediation;

(j)”—and—“the use of interpretation and translation services...”

Mr. Vice-President, a lot of persons would not have money to pay for these and I am thinking those services should be offered free. I remember recently reading that a Ministry had hired a lot of translators, and I am thinking those translators should be ones who are given free to the courts that they would be able to assist rather than the persons involved having to fork out money, also paying for mediation services. There are mediation departments scattered throughout the country, I am thinking we can have the system where those persons are able to be referred to the mediation department to get free access also for their services rather than have to pay for it because, Mr. Vice-President, the magistrate often sends

persons to us at St. Ann's Hospital for psychiatric assessment. So somebody may come to the court, they may behave in a certain manner that the magistrate may be suspicious, he does not send them to a private psychiatrist to get assessed. He would basically send them to St. Ann's Hospital so they get that assessment from that body at no cost. So I am suggesting that we may have to look at those other services that we can at least tap into without it being a cost to the persons out there.

I also looked at clause 4(r) which replaces section 38(2), and I am saying that actually is one where it shows that the contents of the statement of an offence, which must be listed, like the name of the offence, the reference to the law creating the offence, and a sure description of the offence. And again, this is much needed especially in the sense that sometimes we have cases go to court and the police officers may put the offence there which may not really exist in law, and sometimes the continued education of the police officers and also ensuring that whoever puts those offences as part of the statement of offence would put the correct one.

Clause 4(t) seeks to amend section 56 of the Act allowing the court to transfer case from one court location to another in the interest of justice. So then that term "interest of justice", I need further clarification what is the "interest of justice" because we have had even in this Parliament where persons may have said that certain attorneys rather to go before certain judges in south and try cases. And you know, when things like that come about we have to be sure that we put clear guidelines in place where nobody can point fingers that we are moving a case to choose our judge as it may be seem or to get away from that hassle. We have to get clear systems in place where nobody would feel that they are aggrieved by that.

Clause 5(b) inserts new section to section 3, which allows:

"(1A) The Chief Justice..."

To:

“(a) designate locations...for holding...”— the— “Courts...

(b) ...for the hearing of a specific type of case by a Court;”

And I am saying certain cases—we have seen high profile cases—the whole of Port of Spain got lockdown sometimes and sometimes it may be in cases like this with very high profile cases for the security and preventing the lockdown of certain areas in Port of Spain to move cases, and I see that is a positive thing that could be done once proper guidelines are made.

Clause 5 also repeals section 5 of the Act which details the office hours of the court. I remember years ago we always heard about night courts and all these things, and I am saying that now, with the Attorney General providing us with more legal members, more judges, more masters, more magistrates, probably the idea of night courts would not come into a place again because we, in fact, have been promised more courts and we have seen more personnel come into the judicial system. When I looked at also section 17 which provides that a:

“(1) ...person may...sue or be sued in the Court of the district”— to—

“which he resides or...”— conducts— “business...”

—or in the district where:

“(a) a debt”— was—“contracted...

(b)”—a—“wrongful act”— was— “committed...

—or:

“(c) a... contract...”—was—“made or was to be performed...”

I am thinking this opens up the parameters where you can have a matter held and I see no objection with this.

I looked at the Judicial and Legal Service Act, clause 7 of the Judicial and Legal Service Act which seeks to introduce a new section, section 15 of the Act,

and when I looked at section 15A it provides that:

“(1) A Senior Magistracy Registrar and the Clerk of the Court shall be...Justice of the Peace and the Commissioner of Oaths.”

And:

“(2) ...report to the Chief Justice.”

So I am wondering is there a hierarchy where the Justice of the Peace, Commissioner of Oaths, should now report to the Chief Magistrate? And then, if the Chief Magistrate, now with the hierarchy, he or she would report to the Chief Justice, I am wondering why directly to the Chief Justice if I am interpreting this wrong, or if somehow the powers of the Chief Magistrate is being taken away in a sense that you can go straight and not follow that hierarchy going up?

I looked at the Defence Act now where clause 14 of the Bill seeks to allow for the addition of the air guard which is much needed, because the air guard I am thinking, you know, helicopter services, looking at the countryside, looking for marijuana fields, looking at our borders, much needed, but I must say a lot of our members at the air guard, pilots who are trained, are no longer employed. They had to go out and seek private employment. So we have to see how we are going revamp this air guard even though this piece of legislation there serves to factor them in. Clause 14 also looks at the fact that the President and the Chief of Defence Staff with powers of—you know, they could actually look at an accused in the defence service and if he is charged with a civil offence, somehow remove him from his office.

Now I was a bit alarmed with this because initially I was thinking this civil act to be a—

Mr. Vice-President: Senator, you have five more minutes.

Sen. Dr. V. Deyalsingh: Thank you, Sir, but the Attorney General at least

mentioned the fact that this is really a criminal offence. So we have to see what degree of a criminal offence we could remove this person. Is it drunk driving, is it using obscene language? What degrees? Is it an indictable offence to know that you can remove a soldier from the army if it comes to that effect?

There is also—in clause 14(d), serves to bring in a:

“(3) ...Vice Chief of Defence Staff...among...commissioner officers of the Force...”— to— “assist the Chief of Defence Staff in the performance of his duties.”

I think we have to be a little cautious that the Chief of Defence Staff is not burdened now with a Vice Chief of Defence Staff who he may not agree to, or we are not putting a Vice Chief of Defence Staff in place where we do have the proper protocols of how they are going to get that job. Probably just as how we look for a police commissioner, we may have to see if we have something in place for that.

Firearms Act and Explosives Act, I looked at the fact that there is an extension of the time and this is much needed in this COVID time. Clause 17 also, the Registrar General Act, looked at giving electronic means, and the Attorney General must be commended for bringing that electronic means for payment and whatnot. The Registrar General will not be open—I am looking at—will not be open for the transaction business on:

- “(a) Saturdays...Sundays;
- (b) Carnival Monday and Tuesday;”

Mr. Vice-President, sometimes people have relatives who die in the hospital and they are not able to access the death certificate on time and this is something that happens to a lot of people because you can get a temporary death certificate. You could get a death certificate that you may be able to—you know, the Muslims who die and need to bury their relatives quickly, they have a way where they can get a

temporary sort of certificate. They can bury their dead very quickly and Monday they can go into the office and get that certificate of death. I am thinking it is unfair to the other religions that they may have a relative who dies and are not being able to access this, and it should be also given to other persons who will want a certificate; or we open the district registers, open it right through, Saturday, Sunday, so people can access that and bury their loved ones.

I looked at the fact that the hospital tribunal—clause 23 of the Act seeks to amend sections 16 and 17 of the Mental Health Act to allow the Chief Justice and not the Chief Magistrate to appoint any persons to represent the Judiciary. I am a member of the Psychiatric Hospital Tribunal and I had good relations with the Chief Magistrate who was on board. We went and toured the hospital, we saw the atrocious conditions, and it was beneficial for the Chief Magistrate to see what exists, so when the magistrates are sending persons to St. Ann's Hospital, they would know where they are sending them for assessment.

I also looked at a child who—clause 24 of the Bill seeks to amend section 25B of the Children Act to correct the reference of sexual communication with a child instead of sexual grooming. So we had a recent report in one of the—I think it was in social media, where somebody made allegations about a priest in Mount St. Benedict. Even right now, in the Philippines, there is a big case going on about a four-year-old. We have to ensure that whatever we have in place. It is wide enough to be able to—even if people make inappropriate comments to children, bring them in. You see, sexual grooming has parameters to be made according to law, and I am thinking if a man just tell a girl she is sexy or when you get older, I am going to be with you, those are things I think we need to bring into law. So I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Anita Haynes: Thank you, Mr. Vice-President. I thank you for the

opportunity to contribute on this debate on this Miscellaneous Amendments (No. 2) Bill brought before the Senate today. Those of us, Mr. Vice-President, who have been here for the May/June period in Parliament were quite aware of the mad rush before the parliamentary recess which legislation comes before us and we have to complete an agenda very, very quickly. This one is little unique. I echo the sentiments of my colleagues who have gone before me because not only are we coming to parliamentary recess, but we are coming to the end of this particular Parliament, Mr. Vice-President.

This particular piece of legislation, while I understand and appreciate that there are a number of administrative changes and the tidying up of administrative things, in the legislation it still does give us the feeling of rushing down an examine right before on the last five minutes of the examination time allotted, and so you scramble to put everything down on the paper to say quite simply that you have answered all of the questions. I assumed, Mr. Vice-President, that a lot of this will form part of the achievements as persons speak about what they have been able to accomplish in five years. All well and good. The population is an educated, sensible population so we will see how far that goes.

I want to centre my comments, Mr. Vice-President, and I appreciate the work that my colleagues have been able to do to bring a certain sense of appreciation to the clauses that are housed in this Bill and what they would mean for citizens of Trinidad and Tobago. I want to look quickly at clause 17 which is the amendment to the Registrar General Act, and this is the bit that deals with electronic payments. I start here because I listened to the Minister of Public Administration and the Minister in the Ministry of Finance, as well as the Minister of Trade and Industry, and while we all agree—I am certainly all for electronic payments and moving to cashless systems. While preparing for this Bill and

looking at this, and while we can, at all levels, laud what it means to move to electronic payments, the COVID-19 situation also allowed me to reflect on what we see. Those of us who sit in this room—and I found out when—and Sen. Sobers can back me up on this—we were dealing with persons who had to access the Salary Relief Grant, Mr. Vice-President, in that process, you were asked for your banking information so that your Salary Relief Grant could be directly deposited into your account. It was at that moment that I realized how many citizens of Trinidad and Tobago quite simply did not have access to not only bank accounts, but could not make use of this electronic payment because they are not part of the system.

[MADAM PRESIDENT *in the Chair*]

So while we talk about the leaps and bounds that we can move to because of a pandemic that has forced us as a society to move forward, we can also discuss how we can improve accessibility, and how we can move towards a more inclusive society, not leaving anybody behind. Now, I appreciate that whilst fees are now available to be paid electronically, it does not remove the cash system, but I just saw it as an opportunity to raise the issue of how many persons may be left out. Madam President, again, while we seek—in my mind when you are bringing a miscellaneous Bill or any ominous Bill, you should be able to group things and house it in a manner that it would make it easier for us to comment on.

So that you are not jumping from one thing which is electronic payments to clause 11 which deal with putting it to negative resolution from affirmative resolution. You see those things do not connect, because if on one hand, we are talking about improving systems and whatnot and then in here, you have a clause like clause 11 which reduces parliamentary scrutiny in a certain piece of legislation, you see it comes across disingenuous. It comes across that you are

trying to sneak something in in a wider piece of legislation. That may not be the case but I am saying perception matters.

2.15 p.m.

I want to look, Madam President, as well, at the amendment to the Motor Vehicles and Road Traffic Act and I am looking specifically at the 25(c), 84B(1):

“A child who is referred to a child traffic counselling under this Act, shall attend the programme.”

I would like—I do not know if the Attorney General will have the time in the wrapping of this piece of legislation but at some point in time to get some details on what this child traffic counselling programme would look like. I would say it is a good idea but it will hinge on its implementation. That is how we will know if it is effective because to put it into the legislation, like I said, and in a big piece of legislation to say a” child who is referred shall attend a traffic counselling programme”, we need to find out—the details of these things are important. Simply what is the timeline for the set up? So we pass the law, the law is assented to and then do we wait two years, four years for the programme to be done? Is the programme already complete, ready for rollout? Who is responsible for setting up the programme? Is it the Children’s Authority? Is it the motor vehicle? Is it people responsible for motor vehicle and traffic? Who is responsible for setting up the programme and then ensure that—because we do know, Madam President, you get your licence at 17 in Trinidad and you are allowed on the roadways. We do see a number of accidents happening with persons in a certain age bracket, whether it is maturity level or what, we do know that is a fact, so I think that this programme can have a lot of benefits once it is not just included here to be checked off as a box to say we did something and it is not done effectively and it does not meet its good intent.

Madam President, I listened to the Minister of trade talk about a number of measures in here would improve efficiency and the ease of doing business, looking specifically at clause 29 which amends the Companies Act. And in 2012, out of 190 countries I believe, Trinidad and Tobago was 63 in terms of the ease of doing business. Today, we stand at 105. What that particular statistic tells us is that we absolutely need to do all in our power to reduce bureaucracy and red-tape so that persons can find it easier to set up a business, things like companies' names. Just the act of setting up your business, it needs to be easier, it needs to be more user friendly and that we absolutely need to—when you look at the legislation in and of itself is not enough but rather the implementation because the statistics are telling us that while we may be passing more and more laws, we are not being as effective because the numbers are telling us that we are now in a worse position than we were before in terms of the ease of doing business.

Madam President, those are the clauses that I looked at specifically. I mean, I looked at some of the others that were commented on before and I would add to Sen Chote. I want to just add my own voice to what Sen. Chote said which is this idea of the expansion of the power on any Chief Justice, that needs to be looked at carefully and ought not to form part of an ominous Bill in this nature. So if you were to just take that out—and I understand what the Attorney General said about the efficiency, but let us be sensible about it. Let us group them in a way that if they are only nearly administrative, we deal with that and those that deal with the expansion of powers, et cetera, deal with those on a separate day and that is how we would be responsible legislators. And I thank you, Madam President. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam Speaker. I am happy for the

opportunity to speak on this Miscellaneous Amendments (No. 2) Bill, 2020, mainly to address what is proposed in clause 26 which is two areas of amendment to the Conservation of Wild Life Act, the main piece of legislation that deals with wildlife conservation in the country.

Madam President, just to trace the history a little bit, upon my appointment in September 2015, there was in place a moratorium on hunting which meant that for the two years previously, there was no hunting in Trinidad and Tobago. It is well known that I come from south-east Trinidad, a significant amount hunting takes place and hunting is a major economic activity during the hunting season and I have been cast in the role of a supporter of hunting and I always have to be very careful to point out that I am not a significant consumer of wild meat. I have spent a significant part of my life as a vegetarian, you may be surprised, but as the Minister responsible for meat, I resumed consumption of meat a few years ago. But I understand, having grown up in these communities, the significance of hunting.

But I also understand, Madam President, from the onset, that I am here as a Minister to represent not my interest, to balance the interest in the society and to make sure that conservationists and environmentalists understand the economic importance of hunting but also to make sure that the hunters and the poachers understand the need to follow the law and also to behave in appropriate manner.

The irony of it all, Madam President, having said all of that is that I believe I am the Minister who has made the most significant changes to the hunting regime in the country, not by anything major, the Conservation of Wild Life Act remains substantially the same, but I have focused together with my colleagues in the Cabinet and my colleague, the hon. Attorney General in particular, on the regulations to see how we could effect small but significant changes, and on one

occasion previously, the Conservation of Wild Life Act itself, because it is in the body of the Act, that the fines are contained. There are some fines in the regulations which the Minister can change by order but the major fines are in the Conservation of Wild Life Act.

And to just satisfy Sen. Haynes, this is not a run-up to the election. There is no hunting of significance in Chaguanas East [*Laughter*] except the hunting of my opponent who is still undeclared. So this is not for campaigning for me, I am set and I know you know that. This time around, my slogan is "Time to Win". [*Laughter*] Not that I am unhappy serving in this House [*Crosstalk*] but I am good with my time here.

Madam President, in November 2015 we commissioned a consultation with all the interests in wildlife and wildlife conservation and environmentalist and I must say that I was quite surprised with the turnout and the discussions and the appreciation of the issues. And out of that consultation, a report was developed and a steering committee was appointed to review the report and out of that, in September 2016, at my first-year anniversary, I presented to Cabinet the report outlining some of the changes that should be made to the management of wildlife in Trinidad and Tobago and it was not my work, it was the work of the hunters, the conservationists, environmentalists overseen by the Zoological Society of Trinidad and Tobago and in particular chaired by Nadra Nathai-Gyan who is the current Chairman of EMA and guided by my predecessor former Minister Mohammed who has done an excellent job in his work on wildlife and other things; Dr. Reeza Mohammed. In October 2016, a wildlife conservation committee was appointed in accordance with the Act and was given a mandate by the Cabinet to do a number of things, including the hunting regime and the conservation regime.

Out of that, Madam President, one of the most significant things I think the

committee together with the EMA and the Forestry Division of the Ministry has done is to move and complete the work to have the Scarlet Ibis, our national bird, declared an environmentally sensitive species and it was startling that we could have given that protection to so many deserving animals in the country but not our national bird, and that protection is in place. We have a few matters before the court and I keep saying as Minister, I would really like to see somebody having to pay that significant fine. We have also taken steps through the EMA and through the ESS process to put in place the ESS designation for the Red Howler monkey and the White-faced Capuchin.

Madam President, in January 2019, we made the first move to significantly increase the fines through the Finance Act and those increases were from \$200. Could you imagine that? Up to 2019, for these offensive crimes to wildlife, including impeding an officer in the execution of his or her duties, the fine was as little as \$200. At that time, in working with the hon. AG on the increase in fines, the general view was that the fines should be increased to the range of \$50,000 to \$100,000 and I felt that we should give the fraternity an opportunity to guide their own affairs and we ended up increasing fines to a maximum of \$10,000. Thereafter, we increased the fines in February 2019 under the regulations which the Minister could do by order once the fines are up to a maximum of \$10,000.

In March 2019, through regulations, I made some significant changes with the support of my colleagues in the Cabinet to the hunting regime, particularly this habit we had of hunting birds and water fowls and ducks. Molly Gaskin and Karilyn Shepard have spent a significant part of their lives advocating for the protection of what is described as the wildfowl. Trinidad is an important destination for migratory birds out of North America during the winter. We have been under pressure from all places to preserve these birds when they come here.

Up in Nariva Swamp, I could say personally that hunters would go—there is a special period for duck hunting and hunters would go and do target practice on the ducks. You know, in our community when we shoot, we shoot to eat. You do not shoot for sport, we shoot to sell and it was sad to go up there and see the type of guns being used and the fact that even after 100 ducks were down on the ground, the people just turned around and packed up and went home. So this was not hunting for food, it was hunting for sport.

And I just felt that as a Minister, in consultation with the community and my colleagues, that Nariva Swamp and the Godineau River and those places where we have ducks should really be environmentally-friendly, family-friendly, quiet places and we took the decision to ban all forms of duck and bird hunting in the country with the exception of one or two. One that remains on the list is the “corbeau” and I did not think that we had so many “corbeau” fans in the country. I am personally a fan of the “corbeau” but there was an outcry afterwards for me to include that which I have not done.

We have always focused heavily on enforcement and, Madam President, I must say that the police officers and the coast guard, national security, our game wardens, have taken significant interest. They recognize the proliferation of illegal gain and trafficking in wild animals coming from South America and every so often, quite often, you see me post on my Facebook page some of the work that they have done. In fact, last week, a magistrate charged somebody. If you have never heard about clipping the wings of a bird being an offence, well somebody was charged for that, amongst other things, and has three months to pay a fine of \$93,500.

You see, persuasion is one way of getting people to do the right thing but sometimes the fine has to be set in such a prohibitive way that we force people to

do the right thing. And while I support some level of hunting and the Government supports that, we also believe that it should be confined to the hunting period and it should be done in a reasonable way so that we strike a balance between the animals that are forming part of the eco-system and should remain that way and the need for some people, particularly in rural communities, to be able to earn a living as they have done for centuries out of hunting.

So, Madam President, what is proposed and this is to bring the Conservation of Wild Life Act in line with what was approved in relation to animal welfare when the previous miscellaneous Bill when we amended the Summary Offences Act to increase the fines for animal cruelty to \$100,000, the Bill that was passed which I call the animal welfare Bill, which is to be debated in the other place on Wednesday, where the fines are in the range of \$100,000 and \$200,000 and this is to increase the fines in most of the categories to between \$50,000 and \$100,000, for the more significant offences, up to \$100,000 to give the magistrate in those cases where the magistrate believes that it warrants that sort of fine to give the magistrate the discretion to go up to that amount.

The second area of amendment, Madam President, is in this wildlife conservation committee which I have said before has done excellent work in service of the country. But what I have found, Madam President, as a Minister is that the composition of the committee was determined in the legislation such a long time ago that the area of conservation and environmental action and veterinary services and all those things have evolved in such a way that you have a lot of sub-professionals and some different classes and skills that have developed and I found that it is too narrow and prescriptive in the current context. We should have a broader representation and we should have the opportunity to do that. But most importantly, Madam President, the wildlife conservation committee is meant

to provide advice to the Minister because it is very rare that a Minister would come in and have responsibility for wildlife conservation and at the same time, have that level of expertise across the broad-skilled area and for that reason, some pieces of legislation including this one provide for advisory.

Recently, we did the same animal welfare Bill, the Animals (Diseases and Importation) Bill and we included an advisory committee recognizing that a Minister would need to have that sort of independent technical advice. The one constraint, Madam President, with all due respect to the current and previous officeholders, is that this committee by law is chaired by the Conservator of Forest and I believe it is something like himself advising himself. So the change that is proposed is to expand the committee from the current number, to increase the number to 10 and I would say right away, we have heard from some Senators that they wish to have a further increase in the number to recognize in particular to specify representatives from the vet fraternity and also specify from the environmentalist group and I have spoken to the AG and we are in agreement with that amendment, expanding by the addition of two further members to represent the vet profession and the environmentalist fraternity.

Madam President: Minister, you have five more minutes.

Sen. The Hon. C. Rambharat: Thank you, Madam President. So the key changes would be to expand the membership of the committee from the current nine and the proposed conservators and ex officio, an additional member so it is 10 plus the conservator and we are prepared to go to 13 and also to expand the skill sets of the persons to be selected. So we still prescribe, Madam President, a member of the Zoological Society, we still prescribe a member to represent the Trinidad and Tobago Police Service, we prescribe two members to represent wildlife hunters. And, Madam President, one Senator has asked me why we have

two representing hunters and why not one, and I said without going into the details will take me my next five years in office, that the hunting fraternity is not as united as that and this allows us to choose from two of the large groupings which basically represent the south and the north hunters. And you see I am not looking after the interest of central hunters at all so that is prescribed.

And then at the proposed 26(e)(ii)(e), we proposed five members to be drawn from:

- “(i) animal health and welfare;
- (ii) wild life conservation;
- (iii) forestry;
- (iv) community service; and
- (v) law.”

And that allows a Minister to be able to put together an advisory committee from a broad subsection of professionals in the country to be able to advise on something as significant as this.

Madam President, as Ministry of Agriculture, Land and Fisheries, a lot of people—one potential appointee to the post described it as pumpkin and bhaji. It is more than that, it includes a lot of things, and one of the things it include is responsibility for wildlife in the country. A lady asked me this morning about the proliferation of iguanas in the City of Port of Spain and I reminded her that one of the things that we have done is to ban the hunting of iguanas in the City of Port of Spain, not because you love iguanas, we all love iguanas but because it represented a major national security issue for persons living in places like Cascade and St. Ann’s who would wake up and see people hunting in their yards and I believe that that small regulatory change has kept the peace in urban Port of Spain and it is something the Government has said we are prepared to do in other parts of the

country. So this addressing a small part but important part of my portfolio, Madam President, and as I demonstrated, we have been at work, doing it since November 2015 and this is another piece of the work that we have to do and I thank you very much. [*Desk thumping*]

Sen. Taharqa Obika: Thank you, Madam President. I wish to start where the Minister of Agriculture left off and it has to do with the Conservation of Wild Life Act before I get into the somewhat unconnected pieces of legislation. I think many times we come before the Parliament and we recognize attempts to curb negative social behaviour by virtue of using fines, custodial sentences and so on, but to me, in the Conservation of Wild Life Act, we are presented with an opportunity to not only look at fines but payments to persons. Because if you look at what we used in fighting crime, for instance, Madam President, we do have fines. We do have custodial sentences as in jail time and so on, community service and so on for the offenders but for the informants we have the 800-TIPS for example where they can receive cash payments for informing the protective services of alleged illegal activity of one kind or the other.

So if we are saying that in the Conservation of Wild Life Act, the fines of \$10,000 and \$1,500 and \$4,000 for different offences were unsatisfactory in curbing attempts at exterminating in species of wildlife in Trinidad and Tobago and we raised it at 100,000 and so on, we may ask ourselves if maybe the detection rate or the apprehension rate is not significant, if these fines would really redound to the benefit of what this law and the amendments are trying to do. We may ask ourselves there may be the opportunity to present payments to persons because many persons may know of individuals engaged in trafficking, capturing and exterminating wildlife, whether it be the national bird, the Scarlet Ibis on one hand or the deer in the forest. If persons have an opportunity to earn by virtue of

successfully informing the protective services, we may find that we will be more successful in conserving wildlife. And whilst I may not have an amendment on the floor, I wish that this fall kindly on the ears of Members opposite in the Government, so that they can seek to contemplate payments to persons, rewards to persons who so inform the protective services.

Sen. The Hon. C. Rambharat: Madam President, if my friend would give way just to point out—

Sen. T. Obika: Yes, I will.

Sen. The Hon. C. Rambharat:—that in the Conservation of Wild Life Act, there is a provision. Section 21 provides for 50 per cent of the penalty to be paid to anybody who is giving information. So it means that by raising it to \$100,000, the fine, there is an opportunity for somebody who has provided information to get as much as \$50,000. I could say I have no control over the Judiciary. I could say in my time as Minister and for years before that, I am not aware of any magistrate who has directed that part of the fine be paid to an informant but it is provided in the law at section 21.

Sen. T. Obika: I thank the Minister for the interjection. I think then given the Minister's caution in articulating how persons get funds, I think we are on the right path with the legislation but we should look at presenting a fool-proof mechanism such as is in place with 800-TIPS where persons feel that they can securely getting this money. Because if in the process of getting the funds, you can get an attempt on your life, you would not even venture to participate in informing the State. So I thank the Minister for that and I still wish if we can get ourselves closer to the 800-TIPS model for conservation to wildlife.

Now, the Minister made a statement, in jest I assume, regarding Chaguanas but I guess it was in relation to clause 22 regarding the EBC and the deferral of

submission of the report by an entire year and it begs the question why. Why now? Especially given the heightened focus on electoral politics in Trinidad and Tobago. Given that no regime has served two full consecutive terms since the passing of the first Prime Minister, not a single Prime Minister thereafter has successfully completed two full consecutive terms in office. Persons would be focused on the change in Government as we would, of course, advance but as persons would expect, given the historical political cycle, we would have anticipated that the EBC would have not been an institution to renege on their responsibility at this time. I think the Government has many questions to answer regarding clause 22.

2.45 p.m.

I want to say that some of these clauses, when we turn to, for instance, the VAT measures, clause 27—I want to speak generally as to the COVID-19 pandemic where that may have been formed by, and there is just one statement I want to make on that, is that, and it is from advice I received from a colleague when I was facing a personal obstacle. So I see the COVID-19 pandemic and our economic response as the obstacle that we are faced with as a nation, and I want to say that our legacy in Trinidad and Tobago will be greater than the obstacles faced by this nation in COVID-19. Our legacy will be greater.

Saying that, I think the Government has missed a vital opportunity, because regarding the amendment proposed in clause 27, one would have thought—apart from looking at penalties or non-penalties regarding the bond payments—we should have look at the opportunity to remove VAT from the basic food items that we have so conscientiously packed into these hampers that we have given and continue to give to persons who may find themselves in situations where they need support for food for their families. I think that this was an opportunity for that in that case.

So I want to go back to clause 17. In clause 17, it is proposed, regarding the electronic payments at the level of the Registrar General, and it raises the question: What is actually in place at the level at the shop floor, if I were to use that word, at the banking hall, for instance, in the Registrar General's office, the different offices there and generally in any office where you have to make payments to the State, apart from the courts which I have made some changes recently? What systems are in place to receive electronic payments? So I am just speaking to payment online here. I am speaking to payments using LINX or credit cards, and so on. I think the Government would need to explain how far along are we, because in fact if we are not far along, we have much to do there and this measure may not redound to the benefit that we wish.

There is another issue regarding online payments, Madam President. That has to do with the security and safety of online payment platforms that the State may engage in and it would be necessary to allay the fears of citizens, so that they can freely and wilfully engage in such payments so that there are no issues there.

The issue of online payments also raises another question. It has to do with the law as it pertains to electronic payments. And there was—and I want to illustrate by virtue of an example. There is a WiPay system and persons engaged in making payments to support, whether it be persons who need cash support and so on, the organizer of that system, the originator of that system, the vendor, had to go at pains to show that he was not in fact using a transfer or money-generating system that did not contravene the laws regarding such in Trinidad and Tobago. There is need to revolutionize and bring into this century, the mechanisms available to vendors and to businesses regarding that type of payment system.

This Parliament has come to an end, and I would raise that separately with the Attorney General afterward. I see the Attorney General looking to raise a

question. I do not have the actual name of the law in front of me. I would raise it with the Attorney General separately, so he can understand exactly where I am coming from. But I believe that the life of this Parliament has come to an end, so it may be something that we may have to pay attention going forward.

Now, regarding the electronic payments, it also raises another issue regarding the establishment, in terms of the personnel and staff complement and the way the job descriptions are restrictive. For instance, if one works in a financial institution, anyone who is so trained can fulfill the role of persons who are cashing or telling as they may be, but using the Government establishment posts, that may be a little more restrictive and difficult for someone to move their staff around to keep positions, and I think the Government should want to look at that as well.

Clause 24 raises the issue of child traffic violators, and it was comforting that no fine was contemplated. However, what I have a little issue with is where it states that if:

“50D (1) ...a child fails to comply with...the Court, the Court...”—is empowered to make the child enter the performance of—“unpaid work in accordance with the provisions of Community Service Orders Act.”

I had great difficulty with that statement, you know.

And when we go down into clause 25, we see that the traffic counselling programme instead was used and to me, when you say a child being engaged in unpaid work, Madam President, it sounds as forced child labour, it does not sit well with my conscience, and I think we should be careful not to introduce that type of directives into the legislation, especially where children are concerned. I think the remedy cited in clause 25 may be more amenable to improving the outlook of children as they are still in their formative stages.

Clause 28, Madam President, and I know Sen. Mark spoke at length on clause 28, so I only want to raise one juxtaposition. Pleasure craft, at this time, it raises the question: Why? Why is that important at this time? As the life of the Parliament is coming to an end, why would we focus on ensuring we insert into a miscellaneous provisions Bill without the opportunity for a great debate because of the number and the range of clauses involved? Why would we seek to insert that at this time? When you juxtapose that with the unwillingness or the inability to include reduction of, or the removal of VAT on basic food items, a wider array of basic food items, it begs the question, you know: Is this Government really interested in the average person thriving in this country?

Turning to clause 29, there are so many clauses to address in this Bill that you can only, in passing, deal with them, which I have great issue with. But here we are. It is curious to me that the Government would seek to extend the period for reservation of a name from 20 to 45 days. It begs the question if the Government is catering to a more inefficient system of business registration. And once you speak to business registration, because, of course, the Government would advance the argument that it is being requested by a business or by persons who seek a little more time to get through their name request, and so on. However, if we present the information as to—

Madam President: Sen. Obika, you have five more minutes.

Sen. T. Obika: Thank you, Madam President. If we present the information as to how many businesses really would have been adversely affected by the shorter 20 days, it may make a case for keeping it at 20 days, because the ease of doing business is very important to how a country projects itself, how we attract investment, and of course it provides a rigid guide for public officers, servants of the public, to ensure that their systems are efficient in meeting the needs of the

customer, of the public.

Clause 30, Madam President, speaks to the Moneylenders Act. And one can easily observe across this country an increased capitalization of Maerki moneylending operations. So I am not saying that there are more moneylenders in Trinidad and Tobago now than before, or less. I am saying that you can observe that there some moneylending operations that have increased, significantly, their level of capitalization. And as a result of that, this amendment, to have been dealt with now, should have taken into consideration that change and not just the administrative change as to what is presented here, but focus more on bringing the moneylenders closer to a better form of financial service regulation so that, of course, clients are better served. Because we still have a lot of moneylenders providing loans at rates that are ultra vires the law. And if we bring these money lending operations into closer and tighter— at least the larger ones— regulations, it would assist in better meeting the needs of client, and of course, a more fair and equitable system in this country.

Madam President, I recognize that the life of the Parliament is coming to an end and this may very well be my final contribution in this Parliament, given that an election date announcement may be imminent. I wish to say that it has been a pleasure to be part of this Parliament. It has been a pleasure to serve the people of Trinidad and Tobago. It has been a pleasure to serve the people of my constituency. And whilst some may like or dislike my fighting spirit, I do it for the people of my beloved country. Madam President, I thank you very much and I thank all my colleagues on all sides of the Benches of Parliament. Thank you.
[Desk thumping]

Sen. Khadijah Ameen: Thank you very much, Madam President, for this opportunity to contribute in what may very well be our final debate in this

Parliament.

Hon. Member: Tomorrow. We are coming tomorrow.

Sen. K. Ameen: The Opposition is not in charge of the agenda here, so we can only speculate. Madam President, I am still of the belief that the limited time that the Government had determined is suitable for this Parliament based on the COVID-19 restrictions and given the nature of the Bills that are being engaged now, I see a contradiction and I am not satisfied that the Government has sufficient reason to still be shortening the time of Members. That being said, Madam President, I want to quickly touch on a few of the clauses and a few of the elements. I want to say elements because I know in a debate it is not always clause by clause but there are different elements that would be affected.

Madam President, I listened to Members on the Government Bench praising some of the measures that we see on paper. The commendable move of electronic payments of fees to the court, or virtual hearings, and so on, this did not start under this Government. Work has been in progress within the Judiciary to have these things done and it spanned over several administrations.

The People's Partnership Government embraced the Judiciary's efforts in this regard. I am happy to hear from people who are practitioners in the court system, attorneys, and so on. So when a legislator could read the administrative measures being implemented, that is one thing. It sounds commendable and of course, the Government will pat themselves on the back, himself to himself, self-praise is no praise. So while the commendations may be legitimate, the contributions and the views of practitioners, when I hear the contribution of Independent Sen. Sophia Chote, my colleagues, Sen. Saddam Hosein, and Sean Sobers, who are practising attorneys, we have Sen. Vieira and others, I think their perspective is very important when it comes to what is actually being practised in

court, what is being encouraged, what should be encouraged and what improvements are to be made.

I am not a practitioner, so while I commend the direction, I do not intend to comment extensively on any of those clauses.

Madam President, quite a number of the clauses in this Bill, it is administrative, and I know that it is more or less, as the Attorney General likes to say, a tidying up of the law, so that is all well and good. This Act deals with 17 pieces of legislation. I want to very quickly go to clause 4, which seeks to amend the Summary Courts Act to empower the Chief Justice to appoint locations for the holding of summary courts and to designate a location for the hearing of specific types of cases by a summary court and to assign magistrates to more than one court location and to issue Practice Directions and practice guidelines.

Some of my colleagues commented on this, but I wanted to bring a—really it is to ask a question. The Chief Justice already has the power to designate a summary court. Does this provision merely extend that power from location to include the types of cases? The contentious issue here can be that the Chief Justice, of course, can transfer a case from one summary court to another. My question is: Can this take place after a matter is started? Should we be clear here that the matter should not be transferred once it is started, or that provisions should be made before the matter is started? That is one question I think we could somehow include or do we leave that discretion to the Chief Justice? It should state here whether that power cannot be exercised once the matter has started. The provision here is silent and it may become contentious after this is implemented. We do not want claims of victimization or interference or discrimination of any sort.

My colleague raised an issue, for example, on what grounds would a matter

be heard expeditiously in one court but not in another court? There are inefficiencies in our justice system; we know that. There are courts that are functioning under really terrible situations, in terms of their accommodation. Do you transfer from one court because the roof is leaking, because the air-condition is breaking down constantly? These things are happening in courts throughout the country. So for what reason would you move it from one to another, or is that totally under the discretion of the Chief Justice?

Guarding against the possible perception of interference is also very critical. And I want to endorse my colleague, Saddam Hosein who raised that matter earlier in the debate.

I now want to go very quickly to clause 4(p), which really deals with the clerk being able to make a payment as directed by the Minister, but in accordance with the direction of the accounting officer of the Judiciary.

I just want to say, Madam President, as I say, I am not a legal practitioner, but I just want to suggest that this could be confusing. Is the clerk going to be directed by the Minister or by the Judiciary— by the accounting officer in the Judiciary? I think we have to be clear. It can be either or. It can to the Minister, but directed by the Judiciary. We have to guard against that separation of power and I think that just might be minor. It might be minor but in case, in the future, any confusion arises, I think we have to be clear on it.

Madam President, there is also a clause, clause 7 that states that the:

“15A (2) ...Clerk of the Court shall report to the Chief Justice.”

There is 15A and 15B. So in 15A(2):

“A Senior Magistracy Registrar and Clerk of the Court shall report to the Chief Justice.”

But in 15B(2), it says:

“A Magistracy Registrar and Clerk of the Court shall report to the Senior Magistracy Registrar and the Clerk of the Court.”

I just want to suggest that there be some consistency so that, you know, we are very clear. Having that inconsistency with reporting to the Senior Magistracy Registrar and the Clerk of the Court should be eliminated by having the same thing throughout. If you decide it must be “and”, if it should be “both”, it should probably be “both” throughout.

Madam President, clause 11 has an impact on parliamentary oversight. I always speak about and support the importance of parliamentary oversight in our Westminster system; the need for transparency; the need for the Parliament to constantly be able to have that reach, according to what is current.

So clause 11 seeks to amend section 67 of the Sexual Offences Act, to remove the requirement for an order to amend Schedules one and two by affirmative resolution of Parliament and to provide for those Schedules to be amended by order, subject to negative resolution of Parliament. We are moving from having those get affirmative resolution to having a negative resolution of Parliament. To me, this removes the provision that we have now for parliamentary oversight of the Executive and when exercising legislative power, this, Madam President, I feel is something that we should oppose. The Parliament should continue to be able to have that check on the exercise of this power. So I am not in agreement with moving from affirmative resolution to a negative resolution of Parliament for clause 11.

Madam President, clause 14 in this Bill, part of the clause provides for the inclusion of air guard as a unit of the Trinidad and Tobago Defence Force and to empower the President and the Chief of Defence Staff, and so on. But the other part of the clause provides for the appointment of a Vice Chief of Defence Staff,

and it says that it would come from amongst the commissioned officers of the force and that the Vice Chief of Defence Staff shall assist the Chief of Defence Staff in the performance of his duties.

What this clause is silent on is who appoints the Vice Chief of Defence. I know that the presumption, of course, will be that the Vice Chief of Defence Staff, or shall I say CDS, because they usually refer to it as the CDS. The Vice CDS, it would be presumed, would be appointed in the same manner as the CDS. But it is not stated here at all. I do not think it would be too much for us to say how the Vice CDS will be appointed. I expect that it will be in a similar manner as the CDS. But I think we have the opportunity to clearly indicate that here. I see no harm in it and I want to put that forward as a recommendation.

Madam President, this Miscellaneous Amendments (No. 2) Bill also deals with fireworks. It amends the Explosives Act:

“...to provide for a licence to be issued on the order of a Magistrate...to be signed by the Magistrate of a Clerk.”

And it provides for the:

“...order of a Magistrate...to be signed by the Magistrate of a Clerk and for an application to be filed with the Clerk and not...”—the—“Magistrate.”

Let me begin, Madam President, by saying on this point that animal lovers, people who are elderly or affected by noises, have become more outspoken about the use of fireworks. There are advocates who constantly talk about the use of fireworks in Trinidad and Tobago, whether it is necessary. Clearly there is a nuisance factor. What happens at the particular times when fireworks would be popular? And we do have a present system to grant licences for the use of fireworks. But there have been calls for more checks and balances to be put in place. This provides another form of checks. But it might seem minor, but I think

it is good. What I think we have to be clear about, Madam President, it seems okay for the magistrate to grant the order and to have the clerk do the necessary administrative paperwork. But what happens when the clerk fails to act in a timely manner? When the magistrate makes a decision and it goes to the clerk for a signature, and you have a delay that could interrupt, you know, whether you have the event or not or having the fireworks or not.

Further to that, when the order is actually signed by the clerk, is it an order of the magistrate or an order of the clerk?

Madam President: Sen. Ameen, you have five more minutes.

Sen. K. Ameen: Thank you. Is the clerk signing on behalf of the magistrate or on his own as Clerk of the Court? I think we need to be clear that it should be stated that, notwithstanding the order is signed by the clerk, it is deemed an order of the magistrate. It may seem very simple, but I think it is important, Madam President. But I think this step may be welcomed by advocates. But I also want to add my voice on this matter to say this is not enough when it comes to fireworks in Trinidad and Tobago, and how it affects the elderly and pets and all of us, and the members of the public in general. So I do look forward to more being done with regard to fireworks in Trinidad and Tobago.

Madam President, a number of Members on the other side spoke about the provision for fees to be paid to the Registrar General electronically. The clause also specifies that:

“...the office of the Registrar General will not be open for transaction of business on Saturdays, Sundays, Carnival Monday...Tuesday, public holidays”— and— “the next following...day after Christmas day...”— “Tuesday”—and Wednesday— “after Easter and on any day as the Minister with responsibility for legal affairs may direct.”

I just want to query one thing. It says that the office will not be open for the transaction of business. But is it that the office is going to be closed? Is that you are not open to the public but the workers still come to work? And if it is that the public officers do not have to come to work on these days, then there is a difference in what happens with other workers in the public service. For example, if you look at—well, I do not know if it is called Easter Wednesday. We are extending this Easter weekend for so long, the Wednesday after Easter is a public holiday, will be a holiday for public officers in this Registrar General's office, but not for public officers.

3.15 p.m.

So, I think we have to be consistent and we could just simply say that “the office of the Registrar General would be closed for business transactions” with the public on those days, but not that it will be “closed” because then you are talking about the days the workers will come out and that would be different from others in the public service.

There are a few clauses in this Bill that has an impact on local government and regional corporations when it comes to the—there are six clauses but, Madam President, I want to very quickly say that the fact that these six clauses, they are coming up, it was mentioned before in the Cinematograph Act and so on before. There is a pressing need for reform of local government in Trinidad and Tobago. I sit on the local government reform committee, the JSC, and work has been ongoing for some time, but this is one the first things that the Government spoke about. Several of these issues are mentioned in the nine pieces of legislation that is before that committee. But I really feel that full implementation of local government reform, if this Government was truly committed to reform, could have taken place already in the time since they have been there.

So while I am in full support of local government being given more powers in law, I also want to urge that the present Act is still not fully implemented at this time. The Government is in the process of discussing local government reform, it was a campaign promise. And I think the approach is to bite off nine or 11 pieces of legislation—

[Madam President makes hand gesture]

Thank you, some of those that were mentioned here, but you know sometimes in trying to bite off more than you can chew at this time the Government is choking, and your time has run out and you have no good answer for the people of Trinidad and Tobago. Madam President, I just feel this 20 minutes is just not enough to do justice to a Bill that has 17 pieces, but I thank you for allowing me to have a contribution.

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

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, I wish to thank all hon. Senators for their contributions to this particular debate, I wish to especially thank Hon. Members for the recommendations that they have brought to the floor for consideration. I do not propose to be very long in the wrap-up on this particular Bill because I believe a Bill of this type is better spent in committee stage, and perhaps that is the correct place to start. I want to just remind hon. Senators that whilst the speaking time has been adjusted during the COVID situation, and which have worked rather well for all of us, insofar as we have been in the position of achieving a great workload accomplishment, I want to remind that there is no restriction at committee stage. And in fact, it is at the committee stage that we work through the full particulars of concerns of hon. Senators in legislation. I personally, having had the task of piloting the vast majority of work in this Government have had no difficulty

whosoever in the truncated time to pilot the legislation. So, whilst I do uphold and cherish the principles of freedom of speech in this Parliament as it is enshrined in our Constitution, I really do not feel much difficulty in the statement of principles and the identification of issues that we are permitted in the truncated time frame.

Madam President, there are just a few issues I would like to touch in relation to this law. I regret that I was torn between another meeting—the finance and general purposes meeting—and therefore I missed a few of the contributions in this their full course. I do have some notes coming from my colleague Sen. Rambharat as to some of the contributions. But permit me to address just a few of these issues and then take a very fulsome approach at the committee stage as we go through.

Sen. Mark raised the issue of the SRC and also too so did Sen. Thompson-Ahye. Sen. Thompson-Ahye raised the point of the considerations that we ought to have when we were dealing with the amendments proposed for the Registrar General. And I would just like to deal with that issue first. We do propose an amendment to the Judicial and Legal Service Act, we do that by clause 7 of the Bill, and when we get to clause 7 of the Bill and we look to the manner in which we propose those amendments permit me to reflect upon the history of this.

I would like to put on the record that we have sought to be guided ultimately by the Constitution in this matter. The Constitution of the Republic of Trinidad and Tobago sets out at section 141 of the Constitution that:

- “(1) The Salaries Review Commission shall from time to time with the approval of the President review...salaries and...conditions of service of the President, the holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government...Parliamentary Secretaries, and the holders of such other offices as may be prescribed.”

It then goes on to say that:

“(2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying, as soon as possible thereafter, on the table of each House.”

I also want to put on to the record section 111 of the Constitution, and it is important to bear in mind that the officers referred to at section 111, that is, appointment of judicial officers, et cetera, where the Prime Minister is the person that must be consulted. These are the following offices where the Prime Minister has a consultation role:

“(2) Before the Judicial and Legal Service Commission makes any appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor it shall consult with the Prime Minister.”

So our Constitution at section 111 specifically sets out, and for good reason, the office of the “Registrar General”. Section 141 of the Constitution says, the SRC conducts a review. In fact we know the process is that the President triggers the SRC review, the SRC does a review, the SRC’s review is not the “say so”. The SRC makes a recommendation which goes to the Cabinet, and only the Cabinet decides what will be the terms and conditions.

I want to point out that the SRC recommended in its last report to this Parliament that no parliamentarian, including Senators, should have motor vehicle benefits; that those taxation benefits that Senators and Members of Parliament enjoy should be removed. Obviously, that did not happen. The SRC’s recommendation ran against the grain that you cannot deprive office holders of a

benefit without their expressed consent. But that did not stop the SRC from making their recommendation.

And the matter for the record of the Registrar General, permit me to put this on record, in October last year the Government agreed to the change in the salary positions for the Registrar General for very good reason. The Registrar General under the workload that we have put the Registrar General by the passage of the Non-Profit Organisations Bill, the Real Estate Agents Bill, the Companies (Amdt) Act, the Civil Asset Recovery Unexplained Wealth Act, the Electronic Transactions Act, the four laws in the land package Act, the registration of deeds miscellaneous provisions Act, all of these things have seen us radically ramp up the workload of the Registrar General. The Registrar General must hold the position of accuracy, assist law enforcement, Financial Intelligence Unit, and the court, Trinidad and Tobago Police Service, Board of Inland Revenue, for all vital statistics, births, deaths, marriages, adoption, all companies and business entities, all land transactions.

And therefore, when one has regard for the fact that the Registrar General has 545 employees with offices in Port of Spain, San Fernando, Tobago, Arima, with 16 Registrar General Divisions to manage, it is ludicrous most respectfully, for us to sit and watch the Registrar General not achieve the terms and conditions of a chief legal officer, particularly, when the CPC's department, SG's department, the Chief State Solicitor's Department and the DPP's office all have by far less volume to manage—not severity or sincerity of work effort. And if we are serious about meeting muster, efficiency is an important requirement.

So most respectfully, I think it entirely in order for a government to act within section 141(2), section 141 of the Constitution, to adjust the terms and conditions as the Cabinet is entitled to do because the SRC's position since the

year 2002, has been wait until it is done. We are in 2020, it has been 18 years. If you could not do it in 18 years, when are you going to do it? So most respectfully, I think this position entirely in order.

With respect to “electronic transactions”, I would like to put on record that it is important for us to bear in mind that when we passed the Electronic Transactions Act, that was in 2011, the technology that we use for security and for e-signatures and protocols that was something that was long since moved past because technology has gone a further way. Putting the regulations is critically important.

Now, I heard Sen. Saddam Hosein make a very curious observation that we were somehow interfering with the Judiciary. I heard Sen. Mark in his usual conspiracy agitations say that we were interfering with the Judiciary and putting power into the hands of one office holder. I would just like to simply refer Sen. Mark to the Constitution of the Republic of Trinidad and Tobago. The Chief Justice runs the Judiciary. What is this conspiracy theory that the Chief Justice should not run the Judiciary? The Chief Justice is the person with responsibility, administratively and legally, to manage the affairs of the Judiciary in a separation of powers arrangement. To harmonize the workflow that the Judiciary manages through its divisions of court is entirely within the purpose of the legislation as we seek to manage the Magistracy Registrar, the other workings, the removal of the Clerk of the Peace, the harmonization for the licensing committees, be it for cinematograph, liquor licensing, old metals, stores, theatre, dance halls, whatever they may be, mental health, these things are a requirement for modification.

I got a report of some of Sen. Chote’s submissions asking for data on the successes, apparently— The message that came to me was that Sen. Chote asked for a little more information on that. I think that the reply is a little bit too short to put on board what I certainly consider to be very significant reforms. Perhaps at

the committee stage I can understand a little more of what Sen. Chote was asking for so that I can address it in the context of the provisions of the Bill.

Madam President, I would like to deal with this issue of the VAT bonds that Sen. Deonarine raised. My colleague Sen. West spoke to the issues of the vat bonds. It is true that the secondary transfers and secondary market when they go to institutional hands will not be inside the circle of the VAT arrangements if you want to look at that. First you go to the persons who receive the VAT bonds. Secondly, there is a trading at the market. The rationale for the tax free purpose was to improve the competitiveness of the secondary market. And if you could treat with the VAT bonds in that regard, you would not be asking people to take a haircut on the face value of the bond.

And in those circumstances, we wanted to preserve the viability of the bond as in fact the market has recognized, because the market is accepting the bond at 100 per cent of face value, without a haircut on the face value of the instrument and it is for that reason that we wanted to introduce the concept of tax-free concepts to interest et cetera. But bear in mind as the law continues to speak, because we are anchoring a provision into law, there may be derivative products or other products at a future point in time which could stand to benefit from the treatment of taxable or nontaxable treatments as we get into the structures.

Sen. Obika asked about the harmonized forms, the Customs forms and pleasure craft. The on. Senator asked about why now? The reason is that there was an undertaking from the CSME perspective. In the Caricom Single Market we are obliged to have a consistency of approach. The forms that are required Trinidad and Tobago is out of sync with the forms for the rest of the industry in the rest of the Caribbean, and therefore allowing for the ease of doing business to treat in the Caribbean context with pleasure craft the same way the rest of the Caricom does,

that is the rationale for treating with that as we do right now.

Madam President, the reforms for the virtual court for the requirements for persons to be visible to the court, those are the de minimis requirements. I have noted Sen. Thompson-Ahye's recommendations that we allow for other persons to be present in the court. That is within the court's jurisdiction as it is. The person who comes in to lend assistance to the client who is there for moral or other kinds of support which are obviously necessary factors are not necessarily persons who the court must see. That is the public hearing in the view that we look at it. What we are ensuring, so that there is no witness intimidation, and so that the court can see it, we are assuring that the persons are described as the persons that must have camera view or pan view in the arrangements.

I understand that Sen. Chote raised some concern about the functionality of the virtual courts in the current COVID pandemic indicating that the Court of Appeal may be working well but that the High Court had certain issues that it had to solve. I accept that those are some of the reports that have come back to me in the function that I have, and that the Judiciary has been taking its utmost best to ensure that we restart in full measure as we get the final courts built out across at Tower D. You will note that the entire pan arrangement for FTR, the technology that the Privy Council uses for instance in having full video imagery, that is going to be a feature that we would see which ought to work out some of these issues in the virtual appearances that we are having at the courts right now.

Madam President, I do not propose to address much more than that. I propose to address the rest of the considerations in the course of the Committee. I will just remind hon. Senators that we will be sitting tomorrow so that there is no need for swan song just yet. I would end by telling Sen. Mark when he says, "He can't breathe" and that he is tired, that surely, retirement when he goes out of this

Parliament, as he goes into the winter of his existence, will allow him to breathe a little bit better. We accept that Sen. Mark is tired, and that Sen. Mark needs assistance to breathe. [*Crosstalk*] Sen. Mark can breathe all he wishes in the luxury of his retirement as he moves into that position very shortly. So fear not Sen. Mark.

Sen. Mark: PNM oppression.

Hon. F. Al-Rawi: Fear not Sen. Mark.

Madam President: Sen. Mark, please. Attorney General, perhaps you can wind up.

Hon. F. Al-Rawi: I am winding up. I am replying as well, Madam President. My friend likes to react too quickly. Fear not, Sen. Mark, your retirement is imminent and it will be permanent. I beg to move. [*Crosstalk*]

Madam President: Members, please. There is levity and then there is just taking something too far. We have reached that. Sen. Ameen, I am speaking right now, please. Attorney General.

Hon. F. Al-Rawi: Madam President, in accordance with Standing Order 66 (1), I beg to move that a Bill entitled the Miscellaneous Amendments (No. 2) Bill—

Madam President: Attorney General, you are jumping the gun so just give me the four words I need right now.

Hon. F. Al-Rawi: I did say I beg to move. Sorry.

Question put and agreed to.

Bill accordingly read a second time.

Madam President: Attorney General.

Hon. Al-Rawi: Thank you, first round seemed a little too easy.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Hon. Senators, I remind everyone that there are 37 clauses in this Bill. Each Senator should be in possession of four sets of proposed amendments. Amendments have been circulated on behalf of Sen. Thompson-Ahye, Sen. Wade Mark, Sen. Anthony Vieira, and the Attorney General. Yes, Sen. Chote?

Sen. Chote SC: I do not have Sen. Thompson-Ahye's proposed amendments.

Madam Chairman: Sen. Deonarine.

Sen. Deonarine: Madam President, I did not have a copy of Sen. Mark's amendments.

Madam Chairman: Okay, so here is how we are going to do it. Does everyone have the Attorney General's?

Hon. Members: Yes.

Madam Chairman: Anyone does not? Does everyone have Sen. Vieira's?

Hon. Members: Yes.

Madam Chairman: Does anyone— Right, so who does not have Sen. Mark's? And who does not have Sen. Thompson-Ahye's? Okay.

Clauses 1 to 3 ordered to stand part of the Bill.

3.45 p.m.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Madam Chairman: There is a proposed amendment by Sen. Thompson-Ahye and Sen. Mark—no, the Attorney General and Sen. Mark. So we will start. Sen. Thompson-Ahye, can you speak to your amendment please?

Sen. Thompson-Ahye: My amendment to clause 4 should follow (f), "video link", the definition of "video link" and the parties who should be present. When we look at (e), it says:

“any other person who may be required to assist the Court in the conduct of its proceedings;”

I made this amendment I am proposing, in favour of perhaps what may be termed a vulnerable person who needs psychological or other support within the court system, but is not—cannot be deemed as someone required to assist the court but to just provide support and not to actually take part in the proceedings. So that I am proposing: any other person whom the court permits to be present. So permission will have to be sought from the court to have this person attend to assist the applicant or defendant or respondent.

Madam Chairman: And is there not another element of your proposed amendment, at (b)?

Sen. Thompson-Ahye: Pardon me?

Madam Chairman: Is there not an (a) and (b) to your amendments, your proposed amendments, Senator?

Sen. Thompson-Ahye: You want to deal with the whole 4? Oh, I see.

Madam Chairman: Yes, your proposed—yes.

Sen. Thompson-Ahye: I see after the word “Court”, section 21A, there appears to be a word missing there, as it stands, as it reads:

“Subject to Rules made by the Rules Committee under section 23 or under any other written law, the Court may such administrative fees as the Chief Justice may, by Order, determine, for costs associated with—”

—continue.

There is obviously a word missing there and I propose the word “set”. The court may “set” such administrative fees. The sentence is incomplete. So I am asking for that word to be inserted there, the verb “set”.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you. If I could deal with the latter one first. We also have circulated an amendment to use the word “charge”. So I agree with hon. Senator, thank you for spotting the inadvertent error, which is the omission of the word, the operative word. Because we are dealing with court administrative fees, what we want to do is to charge a fee. So we are proposing that is “charge” but that is taken up in the amendments that we have proposed that we have not yet come to. So I may respectfully ask the hon. Senator to consider that I have treated with it in another way, perhaps she may be willing to withdraw but I am not sure.

With respect to the first part of the hon. Senator’s suggestion, we believe, Madam Chair, that we are talking about an amendment to the definition of “video link” as we have it in the Interpretation Act. It then finds itself into other parts of the Bill. And we are—we have considered what the hon. Senator has said, but we believe that that further persons to be within camera position is caught by (e) as in egg, under the definition of “video link”, where we say:

“any other person who may be required to assist the Court in the conduct of its proceedings;”

I say that respectfully, because whilst I do understand the emotional support aspect explanation that my colleague has offered, we are really talking about a limited space factor in the courtroom and in the virtual hearings, the court really does determine who is required to assist the court in the conduct of its proceedings. That assistance also comes into, for instance, in any form of assistance. So I had the opportunity of an early circulation by Sen. Thompson-Ahye. I have raised it with the CPC’s division to ask them their views, they respectfully believe that we ought to leave it the way it is, as to subsection (e) allowing the court to decide in what fashion it will allow persons to appear in that virtual setting.

Madam Chairman: Sen. Thompson-Ahye.

Sen. Thompson-Ahye: I do not agree with respect to the Attorney General's submission that it is captured in (e) and I think that for the removal of all doubt that it should be included here now as a separate provision and not left to be doubted or a matter for speculation, because the court may very well determine that the person whom I need to assist me in the conduct of the proceedings is not someone who is just going to sit with you to offer that moral support.

Madam Chairman: Sen. Thompson-Ahye, in respect of (a) of your amendment, are you still pursuing it? You are definitely pursuing (b) but what about (a)?

Sen. Thompson-Ahye: Well, the Attorney General has in fact put in the same amendment, “set”, so I do not know how that works. Probably he was good at copying at school.

Mr. Al-Rawi: When we were getting to my amendment, I would have asked you to replace “set” with “charge” but we are not there yet.

Question, on amendment, [Sen. H. Thompson-Ahye] put and negatived.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, when I look at section 5(2)(f)(ii), it talks about, under the Constitution I am talking about, every citizen has a right:

“to a fair and public hearing by an independent and impartial tribunal;”

But Madam Chair, I cast no aspersions but I want to tell you that when we looked at this provision it has caused severe concern, knowing politically what is going on in Trinidad and Tobago today, and therefore, we have a great, great objection, a strong objection to any individual in this instance, in this particular section that we are proposing to delete to have the head of the Judiciary having the power to transfer any case or any type of case from one summary court to another and, Madam Chair, there is no rationale given for this development. Madam Chair, this is something that can lead to undesirable consequences.

Madam Chair, I have a report called, “Global Corruption Report 2007: Corruption and Judicial Systems”. And what that report, 470 pages long, indicated, among other things, is that you can get corruption in the system of justice by transferring cases from one court to another to achieve your political objective. And therefore, Madam Chair, this is a most dangerous development. I do not know where it has come from, I do not know who has proposed it, that is why I asked the Attorney General if this provision came from the Judiciary, so he could tell us, or whether it came from the CPC because there is no justification for what is being proposed here.

Madam Chairman: You mean in respect to (b)?

Sen. Mark: When you go to (k) right, Madam Chair, you are seeing where the same individual who is the head of the Judiciary, moving from—you have case and any type of case being transferred. Now, you have another second layer to get at whomever they want to get at.

Madam Chairman: Sen. Mark, I have to caution you. Hold on.

Sen. Mark: Okay. Let me withdraw it.

Madam Chairman: Let me finish. I have to caution you on how you are making your arguments. You need to still confine yourself to the Standing Orders.

Sen. Mark: Yeah, Madam Chair, this second layer gives the Chief Justice the power, in the interest of securing what is called an expeditious hearing— Madam Chair, I thought all cases should be dealt with expeditiously, so I do not know if there is going to be a picking and choosing of cases by the Chief Justice, to determine for instance, what case should be expeditiously heard and what case ought not to be expeditiously heard. This is what is being said there. And then, those proceedings can move from one summary court to another.

Madam Chair, we do not know in this legislation if a matter has begun and is being heard by a magistrate. Can the Chief Justice use this power that is being given here, to simply remove a matter that is already begun or has already begun at the level of the court, right, and move it to another court before another magistrate? These are serious, serious matters. Madam Chair, let me tell you something—

Madam Chairman: I think we have heard your presentation. Attorney General.

Mr. Al-Rawi: Madam Chair, with respect to the hon. Senator's recommendations, as it relates to paragraph (e) as in "Echo", I wish to point out that this is in the specific context of the CJ considering that having regard to all the circumstances, it is desirable to do so in the interest of securing expeditious hearing on determination of any case, but in this one, it is from one court location to another court location. With respect to (k) as in "Kilo", it is one summary court to another Summary court. I would like to point out that the rationale for this particular position is driven by, for example, the motor vehicle and toad traffic amendments which we just passed and which we have operationalized. To eliminate the 80,000 cases that we have in backlog in the motor vehicle and road traffic arena, it is necessary for us now having removed the umpteen magisterial districts and created three by Legal Notice No. 99 of 2020, to have the ability to move the road traffic cases as an example, from X region to Y region, and location to location.

It is also necessary in so far as later in the Bill you will see, that we deemed the electronic hearings, the virtual hearings, the video hearings, to be deemed to be filed in the magisterial district in which they are filed. So these recommendations in the Bill, are to facilitate backlog management. Obviously, Madam Chair, the issue of a matter which is part heard being transferred is just not on, because then you would be entering into the realm of a trial going de novo of justice being denied, it would be met with objections, right of appeal, et cetera.

So I do not associate myself in any form whatsoever with the conspiracy theory offered by Sen. Mark. There is a clear rationale for this. It is born out of the use of the video link, it is born out of the need to, in particular treat with a backlog of cases in the motor vehicle and road traffic arena. And it is also anchored in the provisions of Section 24 of the Criminal Division and District Criminal and Traffic Courts Act, where the Chief Justice will be creating specialist courts. And those specialist courts include, the Gun Court, the Sexual Offences Court, the Serious Fraud Court; to allow for matters to be put into these courts you have to have the transferability of matters, Madam Chair. So that is the rationale for the amendments being proposed and therefore I respectfully do not accept the recommendations of my colleague.

4.00 p.m.

Sen. Vieira: Thank you, Madam Chair. This is an important point that Sen. Mark has raised, because he is talking about the designating of locations in the context of forum shopping and interference by the Chief Justice. So I want to put a couple things on the record, because it is going to come up again and again. First of all, under the Supreme Court of Judicature Act, reference to the Chief Justice, when it comes to making rules, is shorthand for the Rules Committee. That is section 82. So, this is not the Chief Justice, necessarily, in his personal capacity.

Secondly, under the Summary Courts Act, which is the parent Act for treating with magistrates:

“‘prescribed’ means”—rules—“prescribed by Rules of the Supreme Court or by Rules made under the authority of this Act;”

And the section 23 makes it clear that:

“The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, makes Rules...”

Now, the Summary Courts Act also deals with jurisdiction and districts and here sections 6(3), 6(4), 8(1) and 9 are important. Section 6(3) says:

“Justices shall have and exercise concurrent jurisdiction with the Magistrates...”

And section 6(4) says:

“No Justice shall exercise any jurisdiction in Court for the purpose of hearing and determining any complaint...except upon the written Order of the Chief Justice...”

So here is the Chief Justice ordering the jurisdiction, and at section 8(1):“The Chief Justice may assign one or more Magistrates to a district or may assign a Magistrate to more than one district.”

And at section 9:

“The Chief Justice may by Order appoint places and times for the attendance of Magistrates...”

So it is clear that there is nothing invidious here. It is already in the law and I really have no issues with the proposed amendment.

Sen. Mark: Yeah. I want to anticipate a matter that is coming up again on the Rules Committee and what I saw as an incursion, but I just want to ask the Attorney General, if this matter where the Chief Justice has the authority or we are going to give him the power to transfer proceedings from one Summary Court to another and transfer cases, any type of case, Madam Chair, if it is that it is only dealing with traffic matters, as the Attorney General said, why is it being stated in this section of the legislation “determine any case or type of case”? It has nothing to do with no traffic matter. It could be any case.

Mr. Al-Rawi: I just did not say what Sen. Mark said. I just did not say that. I said, for example, and then I went into section 24 of the Criminal Division and

then I said Gun Court and then I said Sexual Offences Court. So I do not know if Sen. Mark was here when I said all of that, but I just did not say what the hon. Senator said.

And I would like to just thank Sen. Vieira for putting this very clearly within the context of the Supreme Court of Judicature Act and the Summary Courts Act, and I would just like to point out that you would see that we are causing an amendment in the Summary Courts Act to section 23, and in that we are saying that the Rules Committee established by the Supreme Court of Judicature may make subject to negative resolution of the Parliament, rules as to the issuing of Practice Direction. So we are, in fact, tucking everything under prescription and rules which are all subject to the Parliament's oversight.

Sen. Mark: Subject to negative, negative resolution?

Mr. Al-Rawi: "Ohhh" jeez.

Sen. Mark: [*Inaudible*]—support on this proposal.

Madam Chairman: All right. Hon. Senators, the question is that clause 4 be amended as circulated by Sen. Mark.

Question, on amendment, [Sen. W. Mark] put and negatived.

Madam Chairman: Attorney General, I think you have already explained your amendment, proposed amendment to clause 4?

Mr. Al-Rawi: Yes Ma'am.

Madam Chairman: Hon. Senators, the question is that clause 4 be amended as circulated by the Attorney General.

Mr. Al-Rawi: And further amended. Did you catch my word in the explanation "set" to "charge"?

Madam Chairman: The question is clause 4 be amended as circulated by the Attorney General and further amended by deleting the word "set" and substituting

the word “charge”.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Madam Chairman: Sen. Thompson-Ahye, you had proposed an amendment to clause 5?**Sen. Thompson-Ahye:** I did so, Madam Chair. Paragraph (b)(ii) in section (1B), I have here:

the manner in which cases are to be listed for hearing by a Court and the parties who are to be notified.

Again, I see the Attorney General has an amendment, but mine is better.

[*Laughter*]

Mr. Al-Rawi: I would just like to assure my hon. colleague that the CPC drafts these amendments for me, so I do not pretend to be passing myself off as the draftsman of this law. The CPC has recommended, Madam Chairman, that we make the amendments as we have his recommendation, and in those circumstances, I believe Sen. Thompson-Ahye and I are capturing the same mischief, which is really to make sure that the wording reads correctly.

Sen. Thompson-Ahye: I have not heard what he said, I am sorry.

Madam Chairman: The Attorney General has basically said that both of you seem to be going along the same lines. So my question to you is, are you pursuing your amendment?

Sen. Thompson-Ahye: Oh, I am pursuing my amendment—

Madam Chairman: Sure.

Sen. Thompson-Ahye:—because I think that word there is necessary. It is not the same.

Madam Chairman: Sure. So hon. Senators, the question is that clause 5 be amended as circulated by Sen. Thompson-Ahye.

Question, on amendment, [Sen. Thompson-Ahye] put and negatived.

Sen. Mark: Yes, my amendments are along the same lines of the previous amendment where the Chief Justice seems to have rather a lot of power. I am also saying where the public service is being undermined in this amendment before us, and I am also seeing, Madam Chair, that the whole concept of mediation is something that is being pursued in accordance with the judicial discretion. I would have thought that such an approach as represented in 5(f) would represent a denial of litigant to access justice. And what is going on in this section here, I do not know if the Attorney General could tell us whether mediation is going to be free and not be subject to a fee, and no fees are going to be imposed for mediation services, because if that is the case that would represent a denial of the litigant's access to justice and, therefore, I was of the view that this question of mediation was a voluntary process and not forced upon parties or ordered by a court.

So, Madam Chair, it is against that background, we are of the view that you have an undermining of the public service, you have a repetition of the powers of the Chief Justice reoccurring, and then you have a situation where mediation is being imposed by the court, and we know there is a cost to mediation, unless the Attorney General can tell us otherwise. So it is against this background, Madam Chair, that we are not in favour of the current amendment.

Sen. Vieira: Just on the point of mediation that when a court refers parties to mediation that does not mean that the court has given up its right or has abandoned the party's right to pursue their legal proceedings. What mediation does, is that it allows the party to see if they could come up to an agreement that works for them. If they do not reach an agreement—and it is entirely a voluntary process—the

matter goes back to court and continues, but for small claims, mediation makes perfect sense and mediation also allows parties to come up with solutions that the court itself may not be able to impose. So it is better—this is a case of where it is good to have—better to have than to want.

Mr. Al-Rawi: Perhaps I can assist Sen. Mark in this difficulty, because when a court refers you to mediation, the very concept of mediation is that you must voluntarily agree to the process. You cannot compel people to mediate. The essence of mediation is a voluntary agreement between the parties to engage A, in the process and B, to see if they can find a solution and I thank Sen. Vieira for clarifying the process. There is a court annexed mediation aspect which the Judiciary has promoted and which this Government has underwritten in larger measure. In fact, I can tell you before the Cabinet right now is an amplification of that. Litigation always cost. There is always a charge, there is always a fee and I just simply reject the concept about denying people their freedoms, et cetera. That is just respectfully just not on, Madam President. So, I do not associate myself with Sen. Mark's comments.

Question, on amendment, [Sen. W. Mark] put and negatived.

Mr. Al-Rawi: Madam Chair, clause 5, we propose be amended as circulated in paragraph (b)(ii) in the new subsection (1B). Clearly the word “of” is inappropriate and should be “for”.

Sen. Dr. Dillon-Remy: Madam Chair, how the amendment reads now, it still does not make sense Attorney General. I think what Sen. Thompson-Ahye had proposed makes more sense. It says:

(b) the manner in which the cases are to be listed for hearing by a court and parties are to be notified.

Mr. Al-Rawi: Perhaps, I could explain. The chapeau, when married with

subparagraph (b), would read entirely like this:

“(1B) The Chief Justice may, by Practice Direction, give directions for—

- (b) the manner in which cases are to be listed”—for—“hearing by a Court and”—it means for the manner in which—“parties are to be notified.”

The two are read that way. So when you read the chapeau, which is the heading part:

“(1B) The Chief Justice may, by Practice Direction, give directions for”—you continue at—

- “(b) the manner in which cases are to be listed”—for—“hearing by a Court and...”

And then it is read from a drafting perspective as:

the manner in which parties are to be notified.

So this is the CPC’s construction which is in keeping with the language as used in the rest of the Act.

Sen. Thompson-Ahye: Madam Chair, if you read the thing as a whole, the English does not read right, it just does not read right. So, I do not know if we want to put that in our statute books, but I have a problem with English not reading right in the statute books of my country. I really do. If you read the entire thing through you will see that it is deficient.

Mr. Al-Rawi: May I, Madam Chair? The CPC has leaned over to me to say, emphatically, that he does not agree with the proposal because we cannot use the word “who” as proposed by Sen. Thompson-Ahye. I must defer to the CPC’s construction of language as the drafter for Trinidad and Tobago. So I am in his hands as to how the law ought to be read in the context of the general positions. This is not meant to say that the English language is slightly different in its

construct. I accept what the hon. Senator is saying, but I must be guided by the CPC.

Madam Chairman: Sure. Sen. Vieira.

Sen. Vieira: Thank you. I am wondering if commas might make a difference. So, what if—how it would read is:

The functions and duties of a Senior Magistracy Registrar and a Clerk of the Court and a Magistracy Registrar and Clerk of the Court are to—

Madam Chairman: Sen. Vieira, that is not where we are. So we are at page 15.

Sen. Vieira: Oh, I am on 21? Okay, sorry.

Madam Chairman: All right? The question is that clause 5 be amended as circulated by the Attorney General.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Madam Chairman: Sen. Mark, you have an amendment?

Sen. Mark: Of course. Thank you, Madam Chair. This again is perplexing, confusing. I cannot understand why all of a sudden the Chief Magistrate that is engaged in sentencing more than the High Court—90 per cent of sentencing takes place within the Magistracy. That officeholder is now a member of the Sentencing Commission or a representative. You have, for instance, a decision taken by the Government, obviously, in conjunction with the Judiciary, in order to ensure that the Chief Justice or his representative would now be responsible for being members of this Sentencing Commission. But the Chief Justice, although he is in charge of the Judiciary, he operates or she, whoever, would have been there, in the future, at the level of the High Court, and they are not in contact with the day-to-

day activities at the level of the Magistracy. That is why for years, since this Sentencing Commission came into the existence, it was the Chief Magistrate that was there. So, again, Madam President, out of the blue, you have this incursion—well, let me withdraw that—decision, Madam Chair, to bring the CJ into this. And, Madam President, we are not even too sure that the CJ is going to be here, because in the law it is proposing a representative of the Chief Justice or the Judiciary.

Mr. Al-Rawi: Madam Chair, I find it hard to just understand where Sen. Mark is coming from. Perhaps, I may assist this way. The Judiciary is in lockstep with the Sentencing Commission. The Sentencing Commission existed on the books for nearly two decades and nothing happened. It has finally been birthed, but it has come at a point in time after the full workings of the Judicial Education Institute, the JEI. The JEI has the task of significant review. To harmonize the work product and to make sure there is no incongruity between the Magistracy and the Judiciary, the recommendation is that the report of the Sentencing Commission goes to the Judiciary, to the titular head of the Judiciary, and then it is filtered through the Judiciary in its judicial education and training functions. This allows for us to have a better harmonization of work product and this is the rationale for this particular amendment.

Sen. Vieira: Thank you. Just to put on the record that I spoke with the Chairman of the Sentencing Commission on this point and he said he has no problem at all with the amendment. The purpose of the reports are to make the recommendations concerning the administration of justice and the Chief Justice is the best person positioned to receive the reports.

Sen. Mark: Madam Chair, through you, the Chairman of the Sentencing Commission does not make law in this country. We make law. So I do not take no

direction from the Chairman of the Sentencing Committee.

Madam Chairman: Sen. Mark, because I really do believe that we should not treat persons who are not Members of the Chamber in a discourteous fashion, Sen. Vieira has indicated the position. I do not think that an antagonistic approach has to be taken to what the person has said.

Sen. Mark: I am not antagonistic. No, the point I am simply making is simply this. If what the Attorney General is saying, Madam Chair, why remove the Chief Magistrate? Leave the Chief Magistrate there. I do not see why they have to remove the Chief Magistrate.

Mr. Al-Rawi: Madam Chair, the extent of reform that we have engaged in may perplex people that do not pay attention at times. I mean that respectfully.

Sen. Mark: That reform is not in the—

Mr. Al-Rawi: You know, I do not interrupt Sen. Mark, you know, and he has a habit of doing it. Madam Chair, I mean no disrespect or discourtesy in what I have just said. I am explaining it along the line the reforms have come so fast that we have to harmonize these positions. I think that what I said is fairly clear. I respectfully disagree with Sen. Mark's recommendation, but I do understand his agitations.

Madam Chairman: Hon. Senators, the question is that clause 6 be amended as circulated by Sen. Mark.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill.

Clause 7.

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

Sen. Mark: Yes. Madam Chair, I listened to the Attorney General a short while

ago when he spoke in his closing remarks and he make reference to the SRC and the removal of perks for MPs and so on. What he did not tell this Parliament, and as I get into this matter, is that a report came here, and the Parliament took a decision to amend that report and that is proper, Madam Chair. But, in this instance, the Attorney General, for the second time, in less than a year, has taken upon himself to take over the role of the Salaries Review Commission. He is now the new head of the Salaries Review Commission and setting terms and conditions, Madam Chair, that ought to be done by the SRC. I have nothing against the RG. It could be the PG or the SG, it does not matter. I am dealing with principles here and I am saying, Madam Chair, a job evaluation must be conducted in order to determine if this officeholder meets the criteria to become a chief legal officer, to be put on the same range as the Solicitor General. That is madness, Madam Chair. How can we sit here and unilaterally usurp the role and function of the SRC to deal with this thing?

Madam Chair, I am a member of a parliamentary committee that is meeting with a team of consultants on improving parliamentarian terms and conditions, and we have to be putting forward our arguments so that they could form a proper job spec given the duties that we perform. That is part of a job evaluation exercise. So, we have—

Mr. Al-Rawi: I am sorry to interrupt my friend. Sen. Mark is speaking to paragraph (b) which he proposes no amendment. He has taken the time to circulate amendments. Clause 7, delete paragraphs (c) and (d). Where is this coming from?

Madam Chairman: Sen. Mark, I was about to ask that you speak to your amendment which is to delete paragraph (c) and (d) in clause 7. So (c) has to do with the Senior Magistracy Registrars, Clerks of the Court, et cetera. Correct? And (d) has to do with—on page 22.

Sen. Mark: Madam Chair, I am dealing with (c) and (d). Madam Chair, we believe that it is incorporated in this 7(1C) as well. I agree with what you are saying that what is stated here—

Mr. Al-Rawi: I am not hearing you, Sen. Mark.

Sen. Mark:—the entire clause 7, involving the terms and conditions of service of the Registrar General ought to have been included in my amendment, because I am of the view, Madam Chair, that this is a matter—Madam Chair, with your leave, can I ask you if I can incorporate it?

Madam Chairman: I think Sen. Mark is saying, in essence, that he wants to delete all of clause 7. Is that correct? So delete clause 7.

Sen. Mark: Yes. Thank you.

Madam Chairman: All right. I think you have made your arguments in respect of what you are seeking. So, Attorney General.

Mr. Al-Rawi: Madam Chair, most regrettably, we cannot agree to delete all of clause 7. It is critical, having abolished the sections to treat with the Clerk of the Peace and having created in law the Senior Magistracy Registrar and Clerk of the Court, that we must make them ex officio Justices of the Peace and Commissions of Oath, because they have legislative functions to fulfil and duties, very much akin to what the Registrar of the Supreme Court does. So to delete these powers would make a mockery of the structures that we use in creating ex officio Justices of the Peace and Commissioners of Oath. There is a need for them to be able to attend upon persons for those functions in the exercise of many laws which fall previously under the Clerk of the Peace and now under the Registrar, if I could use that term loosely, for the Magistracy.

With respect to the terms and conditions of service for the Registrar General, Sen. Mark is incorrect. The 98th Report of the SRC, when laid in the Parliament,

was not what caused the positions to be done. It was not in Parliament at all. It was by way of a Cabinet decision, and that Cabinet decision is what decided what happened. The report is always laid in the Parliament as it is—[*Interruption*]

Madam Chairman: Just a second, Sen. Mark, let the Attorney General finish please. Attorney General.

4.30 p.m.

Mr. Al-Rawi: Madam Chair, I have had enough of Sen. Mark, you know, respectfully. [*Crosstalk*]

Madam Chairman: No, Attorney General—

Mr. Al-Rawi: I have had enough.

Madam Chairman: Let us continue, Attorney General—[*Crosstalk*]

Mr. Al-Rawi: See what I mean.

Madam Chairman: Sen. Mark—Sen. Mark, please, please. There is to be a certain order in these proceedings. Attorney General, just finish what you have to say and then I will ask Sen. Mark to respond and then I would put it to the vote.

Mr. Al-Rawi: The submissions coming from Sen. Mark for the deletion of section 7 runs contrary to the entire structure of law. It would be a sheer act of insanity to accept the recommendation for the deletion of subparagraph (c) for instance in 7. With respect to the provisions of the Registrar General, I have already addressed that in the debate, suffice to say that what Sen. Mark informed this honourable committee is wrong as a matter of fact and position. In those circumstances, I respectfully reject Sen. Mark's recommendation.

Sen. Mark: Let me before you forcefully reject completely the Attorney General's submission, I was in that chair and I know what went on in this Parliament with that report, he was somewhere else. So he cannot tell me—

Madam Chairman: No. Well, first of all, Sen. Mark, you are referring to the

Attorney General.

Sen. Mark: Madam Chair, the Attorney General, with the greatest respect. So I reject completely out of hand what he has said. Let me just go on to my point, Madam Chair, may I also ask the Attorney General, what is the rationale for the Senior Magistracy Registrar and the Clerk of the Court reporting directly to the Chief Justice when they are supposed to be under the jurisdiction of the Chief Magistrate? Why you go to the Chief Justice to report, Madam Chair? And then, Madam Chair, remember these people are also responsible and they play a big role in the licensing committee. So the Chief Justice is also involved indirectly and directly at times with the licensing committee. So I would like him to explain, that is the hon. Attorney General, why these persons have to report directly to the Chief Justice and not to the Chief Magistrate; that is all.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Most respectfully, very sorry, I just did not hear anything of what Sen. Mark just said.

Madam Chairman: Sen. Mark is asking why do these persons in these positions have to report to the Chief Justice and not to the Chief Magistrate.

Mr. Al-Rawi: The line of authority for reporting in the streamlining that happens with the new divisions of court is that you report to the Chief Justice and then the Chief Justice, through the administration of justice side of the equation, via Court Executive Administrator, court officer, et cetera. That is the way it is done. It is to harmonize the High Court with the Magistracy. I would just like to remind that we have merged the jurisdictions in the Magistracy and in the High Court. And if I could just simply underwrite that by referring to the fact that we have in fact amended the definition of “magistrates”. They are now judges of that court, so it is to harmonize the entire Judiciary.

Mr. Al-Rawi: Sen. Vieira.

Sen. Vieira: Also just to point out that this is an amendment and it is being made under the Judicial and Legal Service Act, and this is an amendment dealing with 15. What 15 is saying is that:

“Subject to the Constitution and to any written law, control and supervision may be exercised over...”

So all of these things are not under just the Chief Justice, it may be a reporting chain, but the supervisory body is really the Judicial and Legal Service Commission.

Madam Chairman: So, hon. Senators, the question is that clause 7 be amended as circulated by Sen. Mark, and further amended to read:

“Delete clause 7.”

Question, on amendment, [Sen. W. Mark] put and negatived.

Madam Chairman: Attorney General, you have an amendment?

Mr. Al-Rawi: Yes, Madam Chair.

In paragraph (c), in the new section 15C, insert in paragraph (j), after the word “hearings”, the words “, the referral of parties to mediation”.

And forgive me, I also spotted that we need to further amend the amendment that I have circulated, so perhaps you could bear with me if I were to explain the wording that I would like you to adjust. Is that okay?

Madam Chairman: Yes.

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, you will see that in clause 7 we are proposing beginning in paragraph (c); regrettably I had omitted amendments to paragraphs (a) and (b), may I indicate those now?

Madam Chairman: Sure.

Mr. Al-Rawi: So it would be three parts then for the amendments for clause 7. In

the first part we would say:

In paragraph (a), delete “subsection (1)”—

So we are deleting “subsection (1)”:

—and substitute “section 15(1)”.

Madam Chairman: And substitute “section 15—

Mr. Al-Rawi: Section 15(1); so the one is in brackets.

Madam Chairman: Right. Okay.

Mr. Al-Rawi: Yes?

Madam Chairman: Closed—

Mr. Al-Rawi: Closed quotations.

Madam Chairman: Um-hmm.

Mr. Al-Rawi: And then we will say:

In paragraph (b),—

And we will repeat exactly the same words as we have just said:

—delete “subsection (1B)” and substitute “section 15(1B)”.

So we are deleting “subsection (1B)” and we are replacing with—we are substituting “section 15(1B)”. May I speak to the reasons now?

Madam Chairman: Yes, Attorney General.

Mr. Al-Rawi: Much obliged. So, Madam Chair, we are proposing these amendments effectively to make cross reference fixed to the subsections as we had in (a) and (b). They would not have made sense if we did not refer them back to the proper parent Act positions, which are section 15(1) and section 15(1B). We are, in the version that has been circulated, because we have allowed for the referral of parties to mediation, we needed in 15C, subparagraph (j), to include the referral of parties to mediation and therefore it is to just harmonize the amendments that we have done previously into this particular section.

Madam Chairman: So, hon. Senators, the question is that clause 7 be amended as circulated by the Attorney General, and further amended as follows:

In paragraph (a), delete “subsection 1” and substitute “section 15(1)”.

In paragraph (b), delete “subsection (1B)” and substitute “section 15(1B)”.

Question put and agreed to.

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

Clause 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, the Rules Committee, from where I sit, how this is to be interpreted is that the Rules Committee will now be making rules prescribing any matter of procedure that is necessary or expedient for the purposes of this Act. Madam Chair, I interpret this to mean that the Rules Committee will now be making rules for the Magistrates’ Court, when in the past it used to be confined to making the rules for the High Court and the other areas of that environment. Now, if we are going to make rules for the magistracy, Madam Chair, I would like to get some clarification as to whether magistrates, particularly the Chief Magistrate, would be a member of the Rules Committee or whether the Rules Committee will only be comprised of the normal persons at the level of the Supreme Court who would sit on it?

Madam Chairman: Sen. Mark, we are on clause 9. Right?

Sen. Mark: Yeah, is that the malicious—

Madam Chairman: Yes, the Malicious Damage Act which is being amended.

Sen. Mark: Yeah, but it is amending at 51.

Madam Chairman: Sure.

Sen. Mark: The Rules Committee.

Madam Chairman: Okay. Attorney General.

Mr. Al-Rawi: Madam Chair, just respectfully nothing about Sen. Mark just made any sense to me.

Madam Chairman: Nothing about what Sen. Mark is proposing is—yes.

Mr. Al-Rawi: Sorry, I am getting to it, I am trying to get over my exasperation, I am taking my time to say it.

Madam Chairman: And I am trying to take you over that exasperation so that we can move on as well.

Mr. Al-Rawi: Thank you, Madam Chair, I sincerely appreciate it. Madam Chair, we are providing for the Chief Justice pursuant to the rule-making function in the judicial arrangements that we have had since prior to Independence to make rules with respect to procedure, that is what the Rules Committee is for. We produced those rules, they are subject to negative resolution, and therefore I just do not understand, respectfully, the submission coming from Sen. Mark.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Clause 10 ordered to stand part of the Bill.

Clause 11.

Question proposed: That clause 11 stand part of the Bill.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, I went through the *Hansard* when this matter was debated and I saw where the Attorney General was—I looked at page 128 of our debate on the SSC report on the Sexual Offences (Amdt.) Bill for adoption, dated the 6th of June, 2019, and, Madam Chair, if you would allow me to just share with

this honourable committee, through you, what the Attorney General said:

“We also believe that clause 67 needs to be amended more...”

I wanted to emphasize “more”:

“than the manner in which Sen. Mark recommends.”

My friend, he is very close to Wade Mark. He goes on in clause 67:

“But in clause 67, we notice that there was no way to amend the second Schedule other than by way of an Act of Parliament, and so we propose that the second Schedule be amended in the same way that we do the first Schedule. That is by way of affirmative resolution of the Parliament...”

Now, Madam Chair, the reason why I quoted this is to bring to your attention that the Attorney General recognized that because fundamental rights and freedoms are involved in these schedules, that if you go to amend Schedules 1 and 2 you will have to create a new Act, and that is why we had to go the route of an affirmative resolution. That is what the Attorney General said in this debate, and I did not even propose an affirmative for the Second Schedule, it was the Attorney General who did that. So, Madam Chair, it is clear that fundamental human rights are involved in this matter, and for the Attorney General to come here and tell us that we must back back from this affirmative to a negative is absolutely unacceptable. This matter will be challenged in the courts of Trinidad and Tobago.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. Regrettably Sen. Mark has only read piece of my contribution, because I then went on to specifically say that we would propose in a miscellaneous provisions Bill that we remove the position from affirmative resolution to negative resolution, when we came and we spent an entire occasion in Parliament to amend the schedule by way of an affirmative resolution process. In those—[*Crosstalk*] You see, Madam Chair—

Sen. Mark: What page?

Madam Chairman: Sen. Mark—

Sen. Mark: No, Madam, I am just quoting.

Madam Chairman: I know, but the Attorney General is making his contribution now. Can we please listen to him in silence? Thank you.

Mr. Al-Rawi: So, Madam Chair, the position is—I do not know what fundamental right Sen. Mark is referring to, we are referring to offences listed in the Schedule of the Sexual Offences Act. There is no fundamental right in an offence being listed in a schedule. What is important is that there is a parliamentary oversight of the mechanism by which the schedule is amended; that, Madam Chair, quite simply put is by way of negative resolution. It is laid in the Parliament, the order, you have 42 days to negative the position, and there is well established precedent for that. In the consultation that we took on this particular position, the recommendation coming from the wide range of stakeholders in the practice, et cetera, is that this ought to be done by way of negative resolution.

Madam Chairman: Sen. Mark.

Sen. Mark: May I ask respectfully, because I myself have to exercise great patience we would have heard here today from the lips of the Attorney General, can the Attorney General point out to this Senate what page of his contribution that he referred to when he said he is going to come back here with a negative resolution to fix this? Could he do that? I quoted what he said, let him quote for us where he said that, on what page. And whilst he is thinking, because it is very hard to come up with it, let me indicate to you, Madam Chair, before he does it, the specific removal of this procedural protection and our oversight mechanism is disproportionate in that it fails certain limbs of the proportionality test and it does not pass that test, Madam Chair. And therefore this matter is a very serious matter

because it can render the entire registration process unconstitutional and non-compliant with section 13 of this Act. That is why I told the hon. Attorney General if he does not get it right that will be dealt with elsewhere.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Well, I do not know about section 13 of that Act, that is certainly not on; that is just not what it is.

Sen. Mark:—of the Constitution.

Madam Chairman: Sen. Mark.

Sen. Mark: Sorry, Madam.

Madam Chairman: Let that be the last time, please.

Sen. Mark: I apologize to you.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, most respectfully, Sen. Mark is referring to my entire contribution when we debated the amendment to the schedule which we brought by way of a separate Act. We spent an entire day in the Parliament. In my presentation and in my wind-up, and at the committee stage I repeatedly made reference to the need to amend the law by way of negative resolution. It is there on the *Hansard*.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clauses 12 to 16.

Question proposed: That clause 12 to 16 stand part of the Bill.

Sen. Mark: Do I have any amendments here?

Sen. Thompson-Ahye: Madam Chair—

Madam Chairman: Yes, Sen. Thompson-Ahye.

Sen. Thompson-Ahye: Would the Attorney General, through you, be minded to include commas in two particular clauses, 6 and 9. Would he be minded without a written—

Madam Chairman: Sen. Thompson-Ahye, wait, just one second. We are now dealing with clauses 12 to 16.

Question put and agreed to.

Clauses 12 to 16 ordered to stand part of the Bill.

Clause 17.

Question proposed: That clause 17 stand part of the Bill.

17. Delete paragraph (c) and substitute the following paragraph:

“(c) in section 9 –

(i) in subsection (1), by deleting all the words after the word “except” and substituting the following:

“on –

(a) Saturdays and Sundays;

(b) Carnival Monday and Tuesday;

(c) public holidays; and

(d) such other days as the Minister with responsibility for legal affairs may direct.”; and

(ii) by inserting after subsection (2), the following subsection:

(iii) “(3) The Minister with responsibility for legal affairs may, by Order, amend the days specified in subsection (1).”

Madam Chairman: Attorney General, you have a proposed amendment?

Mr. Al-Rawi: Yes, Madam Chair. Madam Chair, the recommendation contained in the Bill unfortunately was something that we had not got right when we first passed the Bill. We are seeking in clause 17 here to allow for a bit more flexibility

as we move to an online presence and as we move to the better functionality of the Registrar General's offices. We think it unduly prescriptive to set out the days on which the Registry will be closed in the parent law. So, for example, the public holiday following Easter, and that is something that really ought not to occupy parent legislation prescription. Instead we propose that the Minister with responsibility for Legal Affairs may by order amend the days specified in subsection (1). This is in keeping with the amendments that we have done to the Judiciary's time and days of operation to allow it to be done by way of order, and that way we can have some flexibility as we move as a society forward.

Madam Chairman: So, hon. Senators, the question is that clause 17 be amended as circulated by the Attorney General.

Question put and agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Clauses 18 to 22 ordered to stand part of the Bill.

Clause 23.

Question proposed: That clause 23 stand part of the Bill.

Madam Chairman: Sen. Mark, you have an amendment?

Sen. Mark: It is most appropriate that we dealing with psychiatry, psychiatric matters. Madam Chair, again, I am not defending anyone, I am dealing with principle, and I am asking the question, Madam Chair, in the current scenario the Mental Health Act we have the Chief Magistrate or her designate who sits on what is called the Psychiatric Hospital Tribunal, what the Attorney General is advancing is to have the Chief Magistrate or her designate replaced, not by the Chief Justice but by a representative of the Judiciary appointed by the Chief Justice.

Madam Chair, I am very concerned, this is another step in a confusing puzzle that is aimed at undermining the role and functions of the Chief Magistrate.

Why, I do not know, I cannot say, and therefore, Madam Chair, we are not even too sure this representative of the Judiciary appointed by the Chief Justice, whether that person would be a non-judicial person sitting to decide matters under section 18 of the Mental Health Act as it relates to admitting persons to a mental hospital, which as you know, Madam Chair, may be done by a judge or a magistrate under section 13 of the Act.

So, again, it is a widening of the power of the Chief Justice without no good reason being advanced. So I need to get some answers from the Attorney General who is piloting this matter on behalf of the Chief Justice.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Sure. Perhaps I may assist Sen. Mark, number one is that we have removed several magisterial districts and harmonize them into three; we now have Tobago, we have north Trinidad and we have south Trinidad. Secondly, Madam Chair, we have merged the jurisdictions between the High Court and the summary court, and now that we have case management, including masters as well, depending upon the division that you come, it is therefore not certain that one may in fact be before the Magistracy at any one point in time as opposed to the High Court.

A further reason is that in the judicial structure and training the Chief Justice obviously receives the reports of the Chief Magistrate. The Chief Magistrate is someone who reports to the Chief Justice, so there is no dilution of the Chief Magistrate's function, because the Chief Magistrate who is now going to be the Chief Judge in the summary court jurisdiction still reports to the Chief Justice. All that this allows in the amplification of the Judiciary's purpose is for better harmonization of judicial output so that the training and structures and persons that have the time in the compositions of teams set out by the Judiciary will have the

best offer there. So there is no intrusion or dilution of the Magistracy in any form or fashion.

Sen. Mark: My I ask, through you to the Attorney General, whether the Chief Magistrate was consulted on this matter?

Mr. Al-Rawi: I really could not tell you, that is not my function.

Sen. Mark: No, it may not be your function but you seem to be totally and intimately involved in what is going on here, so you ought to know what is going on.

Mr. Al-Rawi: Madam Chair—

Madam Chairman: Yes. Sen, Mark—[*Crosstalk*] Attorney General, there is no need to respond to that.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 23 ordered to stand part of the Bill.

Clauses 24 and 25 ordered to stand part of the Bill.

5.00 p.m.

Clause 26.

Question proposed: That clause 26 stand part of the Bill.

Sen. Vieira: Thank you, Chair. My amendment proposes an expansion of the committee from 10 to 12. It would be 13 instead of 11 because the Conservator of Forests would be an ex officio. The other two I am proposing to add would be at (e):

A member drawn from the following disciplines or groups:

environmental science; and

land use science.

Now, I had originally suggested veterinarians, but there is the Zoological Society

there, animal health and welfare is there, wildlife conservation is there. Since wildlife is all about forests, I think land use science would be critical and environmental science. So those are my recommendations.

Madam Chairman: Before I call on the Attorney General to respond, Sen. Vieira, may I just commend you on the amendments in terms of how you have set them out. Not on the substance, but on how you have set them out today.

Mr. Al-Rawi: I fear I am getting involved in other people's business.

Sen. Mark: I am not jealous. [*Laughter*]

Madam Chairman: Well, Sen. Vieira, you remember on the last occasion?

Sen. Vieira: Yes.

Madam Chairman: Yes; so obviously just one person has listened to me in this entire Chamber.

Mr. Al-Rawi: Madam Chair, I was hoping my colleague Sen. Rambharat would be back, because this is his proverbial baby. I have absolutely no objection. I know Sen. Rambharat indicated in his contribution that he welcomed the amendments. I am just at a small disadvantage whilst he is out.

Madam Chairman: So is the Minister of Agriculture, Land and Fisheries to—? Okay, so I will stand down deliberations on clause 26.

Clause 26 deferred.

Clauses 27 to 34.

Question proposed: That clauses 27 to 34 stand part of the Bill.

Sen. Deonarine: Thank you, Madam Chair. Now, I do not have an amendment to the amendments, however, I would like to seek some clarification based on the response that I would have received on the points that I raised in my debate.

The hon. Attorney General did say that—

Madam Chairman: Which clause?

Sen. Deonarine: Clause 27, my apologies, with respect to the VAT bonds. The Attorney General did say that the initial holders of the VAT bonds would indeed be tax exempt in terms of the interest that is being paid on the bonds and, however, when it goes towards trading in the secondary market, the bonds would however be subjected to taxes. Is that correct?

Mr. Al-Rawi: Sorry, Madam Chair. I did not quite say that. Forgive me if I was not clear in expressing myself. So first of all the amendment in clause 27 is intended to speak forever, not necessarily on this bond but any future bond. What we wanted to do was to preserve the legal option to have taxable or non-taxable bonds. With respect to the particular bond that is in circulation now for VAT payments, these bonds we wish to treat with in a non-taxable way, and specifically therefore we will have to amend the regulations for that purpose, which have been produced so far.

However, there will not be—as far as I understand it, and here is where I will welcome my colleague Sen. West to join the equation, as this falls squarely within her portfolio—there is not so far as I understand it any intention to say that the second holder will be taxed as opposed to the primary holder. That would be to discriminate in law on the nature of the bond, which is not possible. So if they are non-taxable, they are going to be non-taxable.

If we said the primary person was non-taxable and then the secondary holder was taxable, but then you would be inviting, not only confusion in the marketplace, but you would also be inviting for a discount on the face value of the instrument.

Sen. West: If I can add to that. The intention of the bond is to ensure that they are transferable, so that the people to whom refunds are due can easily encash the bonds. And we enhanced that position by ensuring that the persons to whom the bonds are transferred also enjoy the benefit of the tax exemptions, and that allows

them to purchase the bond at full face value as opposed to at a discount.

Sen. Deonarine: Thank you both, Ministers. Madam Chair, my question then is: What then is the justification for subjecting these bonds to tax in the first place? I do not understand the logic in doing that, given that it is a reimbursement to a tax liability.

Sen. West: Well, remember the bond bears interest, so it is not the bond itself that would attract the tax.

Sen. Deonarine: Yes, the interest.

Sen. West: Interest falls in the definition of “income”. All income is taxable unless it is specifically exempted.

Mr. Al-Rawi: Madam Chair, it is to allow for the benefit which otherwise would kick in by way of taxation. So right now, unless you make it non-taxable, it is going to be taxed. So this is to specifically contemplate the relief for taxation, and to do that you have to be express in the law, and to be expressed in the law, meaning the regulations which govern the bonds, the parent law must permit the opportunity to do that. So that is why we are doing that.

Sen. Deonarine: Okay. And I assume all of this would be prescribed in the regulations?

Mr. Al-Rawi: They would have to be prescribed in the regulations. So the parent law creates the springboard from which the bond is created, and the regulations prescribe the terms and conditions for the bond.

Sen. Deonarine: Thank you. Madam Chair, the last question that I want to raise, I made a suggestion during my contribution in terms of the consideration in the future to allow for the option for persons who are owed taxes to select either a cash option or a bond option. Would that be consideration in the future? Could that be considered?

Madam Chairman: That is something that you raised yes, but that is beyond the scope of this committee at this stage. Yeah?

Sen. Deonarine: Okay, thank you.

Madam Chairman: Sen. Mark, you wanted to raise something too?

Sen. Mark: Madam Chair, I do not have an amendment, but through you to the distinguished Attorney General, I seek clarification on clause 28. Madam Chair, first of all, I would like the Attorney General to refer to regulation No. 40 under the Customs Act, to ensure that the definition that is used in the present Bill is consistent with that in regulation 40. There appears to be some variation, and I think that we need to be consistent. So I ask the Attorney General, before we go forward, to look at regulation 40 of the Customs Act.

The second area I would like some clarification on, is this: Why are we exempting pleasure craft from being inspected for cargo? Because pleasure crafts could leave here, go to Barbados, Grenada, St. Vincent, all of the islands, and they may even reach as far as Miami. When they return to these territorial waters, they would have things on them. Why are we saying that we are exempting them, as compared to a commercial ship or craft? I think that is needed because right now they seem to be under the surveillance of the Customs body.

And the final area for clarification is this: Why are we replacing a public servant that is insulated from the politician to deal with this matter of the issuing of forms, prescribed forms, as it relates to those people who are coming in here with pleasure crafts, and they have to fill out these forms? What has led to this decision to remove the Comptroller of Customs and Excise who has been doing this since 1930? That is almost 90 years going to 100 years. Why are we removing that under section 264 of the Customs Act, and putting a politician in the persona of the Minister of Finance?

I know you stopped me this morning when I went a certain way.

Madam Chairman: Is that it, Sen. Mark?

Sen. Mark: Yes, those are the three areas I would like to have some clarification on because it is not reading well.

Madam Chairman: Attorney General, do you have—yes, you have gotten all that Sen. Mark has raised?

Mr. Al-Rawi: Sure.

Sen. Mark: But AG, most importantly regulation 40, eh. I think that is the most important one.

Madam Chairman: Sen. Mark, let us let the Attorney General answer.

Sen. Mark: Yes, sorry.

Mr. Al-Rawi: Thank you, Madam Chair. Let us deal with the last one first. The reason that we are using the Minister as opposed to the Comptroller of Customs is specifically because it is going to be a tripartite relationship to cause the harmonized forms: the Minister of Health, the Minister of Trade and Industry, the Minister of Finance. If we were to include the Comptroller of Customs in the place of the Minister of Finance, we would not be able to get the forms done in a post-1976 constitutional arrangement. So the Customs Act is a saved law provision. The Comptroller has certain quasi-judicial and other functions under the saved law, which will not prevail in today's world. To get the harmonized forms done, Minister of Health, Minister of Trade and Industry, Minister of Finance, et cetera, these three entities have to coordinate. So that is the reason why we are putting the Minister in this particular equation.

With respect to the harmonized forms for pleasure craft, we are not exempting pleasure craft, we are just putting a different form for the pleasure craft to use, a more user friendly arrangement. So they will still be subjected to

interdiction, to inspection, et cetera. It is just a different form that we are using.

With respect to the regulation 40, if I could just ask for clarification. Which aspect of the definition causes Sen. Mark concern?

Sen. Mark: I do not have a copy of it before me, but I am advised that there ought to be some consistency between the definition that we have in the legislation and regulation 40. That is why I asked you if you can look at regulation 40 to see if there is any inconsistency with the definition because, you know, you always promote the concept of harmony. So we want harmony, and that is why I asked you to look at regulation 40. That is all.

Mr. Al-Rawi: That helps me. Thank you, Sen. Mark, through you, Madam Chair. Fortunately, regulations are subsidiary in nature, and what we need to speak to therefore is the primary law. Everything else is harmonized ex post facto, so that we can fix the Regulations if there is indeed an inconsistency, because I have not found regulation 40 as yet, but that can easily be sorted out by way of adjustment in the Regulations if there is a need to.

Question put and agreed to.

Clauses 27 to 34 ordered to stand part of the Bill.

Clause 26 reintroduced.

Madam Chairman: Attorney General, your response to Sen. Vieira's proposed amendment?

Mr. Al-Rawi: May I defer to Sen. Rambharat please?

Sen. Rambharat: Madam Chair, in relation to the proposal for 26(e)(ii)(e), the change in the number is acceptable. I had mentioned that in my contribution, and environmental science is fine. Sen. Vieira, you had mentioned the vets, so now you have included land use science, is that—

Sen. Vieira: Thank you, Minister. When I looked at the number of people who

were representing animals, zoological, animal health and welfare, I thought they had enough animals.

Sen. Rambharat: Fair enough.

Sen. Vieira: Because I know what you are looking for is a broad set of competencies on the committee. So I thought that these were more applicable. Land use in particular would deal with protected area management and of course environmental science—

Sen. Rambharat: Right. Would the land use planning be better? Land use planning is actually the profession—land use planning.

Sen. Vieira: Well, land use deals with broader landscape management, protected area management.

Sen. Rambharat: No, but I see the word “science” there, “land use science”.

Sen. Vieira: Land use science, so that is the whole science, yes.

Sen. Rambharat: Because what happens when these things go to Cabinet and it goes for checking at the AG’s Office, sometimes you have public servants who look for a perfect fit to the description. So at the university there is a programme in land use planning.

Mr. Al-Rawi: I got it that Sen. Viera was trying to capture things like environmental sciences, et cetera, as opposed to planning. I am not quite sure if that is what the hon. Senator was looking at.

Sen. Rambharat: No, but there is a specific, (vi) is environmental science, but (vii) is land use science. I am just asking if it would be best captured using “land use planning” instead of “land use science”.

Sen. Vieira: I hear you, Minister. I just checked it:

“Land use science is necessarily an interdisciplinary science since land uses are influenced by, and influence, environmental, ecological, social and

economic systems through a complex series of natural and socio-economic processes, including management and decision making.”

That is from the *Journal of Land Use Science*.

Sen. Rambharat: And you believe that we would have a sufficient pool of land use scientists in Trinidad and Tobago to draw on?

Sen. Vieira: If you have?

Sen. Rambharat: A sufficient pool, a sizable pool?

Sen. Vieira: Well, I would think coming out from the same land use development plan, yes, because land use is critical with forests and roads and all of that.

One other point, Minister, if I may. Where you have “wild life conservation”, I think the technical phrase that is preferred now is “biodiversity conservation”.

Mr. Al-Rawi: Biodiversity.

Sen. Vieira: Biodiversity conservation instead of wild life. “Community service”, I am wondering if “community development” might be more apt. Those are my only suggestions.

Sen. Rambharat: I have no problem with all those suggestions. Thank you.

Sen. Khan: Madam Chair, let me just come in here and support Sen. Rambharat’s claim of the land use science. What happens in the sitting of these committees—I am not blaming public servants so much, but you may not find somebody with a degree in land use science. These are very rare courses that some innocuous university somewhere around the world may give, whereas you may have our university here than those in the United States and in England. So land use planning is really covered in lots more universities and it takes into consideration most of the aspects of the land use science as you so defined. So I crave your indulgence in agreeing with the hon. Minister of Agriculture, Land and Fisheries.

Sen. Vieira: I am comfortable with it. I am guided.

Madam Chairman: So Attorney General, is it that—

Mr. Al-Rawi: So, Madam Chair, I heard a wonderful discussion which requires further amendment.

Madam Chairman: Yes, that is what I was going to ask. So we have the amendment as proposed by Sen. Vieira, but I heard something else, I think in (e)(i), (ii). Is it something you are going to add there, Minister?

Sen. Rambharat: Yes. Well, two further proposals: One is where we have “wild life conservation” to replace it with “biodiversity conservation”, which is acceptable. The other one is where we have “community service” which is at (iv), which is to use “community development”, and that is also acceptable.

Madam Chairman: So, hon. Senators, the question is that clause 26 be amended as circulated by Sen. Vieira, and further amended as follows: On page 38, (e)(ii), it will now read: “biodiversity conservation”. And at (iv) it would read: “community development” instead of “community service”.

Mr. Al-Rawi: If you do not forget to change “science” as circulated by Sen. Vieira to “planning”.

Madam Chairman: Yes, that is correct. So let me do it over.

The question is that clause 26 be amended as circulated by Sen. Vieira, and further amended as follows: At clause 26(e)(ii)(e) on the circulated amendments, instead of the word “science” substitute the word “planning”. And then at page 38, at (e)(ii), instead of reading “wild life conservation” it would be “biodiversity conservation”. At (e)(iv), instead of “community service” it would read “community development”.

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

Clause 35.

Question proposed: That clause 35 stand part of the Bill.

Madam Chairman: Sen. Thompson-Ahye, you have circulated an amendment.

Sen. Thompson-Ahye: Madam Chairman, any argument in favour would be the same as for clause 4. The Attorney General's counterarguments would be the same. Why worry to persist, it would be an exercise in futility. In the circumstances I withdraw.

Madam Chairman: So the proposed amendment is withdrawn.

Amendment [Sen. H. Thompson-Ahye] withdrawn.

Question put and agreed to.

Clause 35 ordered to stand part of the Bill.

Clause 36.

Question proposed: That clause 36 stand part of the Bill.

Madam Chairman: Sen. Mark, you have an amendment?

Sen. Mark: Yes, Madam Chair. It seems that the reform that has taken place in the Judiciary was designed specifically to oust some people. I am seeking to have this clause deleted, because again this clause seeks to replace the Chief Magistrate with the Chief Justice. Therefore, according to the Attorney General, Senior Magistracy Registrar and the Clerk of the Court must report directly to the Chief Justice. Madam Chair, it is another example, from where I sit, where this proposal is seeking to undermine the authority of the Chief Magistrate who presides over these courts and rest the full control in the hands of the Chief Justice.

The Attorney General in his limited intervention earlier today offered no rationale or proper reason for this development. And if I may say finally, it appears that the Chief Justice, given what is being proposed here, is again being given the opportunity to extend his powers and supervisory control over the

Magistrates' Court, and in the process eroding the authority of the Chief Magistrate. So on that basis, Madam Chair, I am calling for the deletion of this provision.

Mr. Al-Rawi: Thank you, Madam Chair. Well, this clause has nothing to do with anything of what Sen. Mark just said; absolutely and completely nothing. This clause proposes that in any written law magistrates shall be referred to effectively as a "district court judge". I do not know where Sen. Mark gets this whole reference of Chief Justice replacing magistrate, et cetera. That is just not on. I have no idea where that comes from. Then further we go on to say, a Clerk of the Court shall be in reference to a Senior Magistracy, et cetera.

So perhaps Sen. Mark is reading something else, but there is nothing of the line, reason, function or methodology discussed by the hon. Senator. This is a very straightforward clause to make sure that the terminology is precise.

Question, on amendment, [Sen. W. Mark] put and negatived.

Madam Chairman: Hon. Senators, the amendment as proposed by Sen. Mark is not accepted.

Question put and agreed to.

Clause 36 ordered to stand part of the Bill.

Clause 37.

Question proposed: That clause 37 stand part of the Bill.

Sen. Dr. Dillon-Remy: Sen. Chote during her contribution had mentioned that the electronic payments Act in section 14(2) did not have what was recorded here in the amendment.

Mr. Al-Rawi: Sorry, I cannot hear the hon. Senator.

Madam Chairman: Sen. Dillon-Remy, can you speak up a little bit so that we can hear you?

Sen. Dr. Dillon-Remy: The Electronic Payments into and out of Court Act at sections—Sen. Chote, should I go ahead? It was based on your contribution. You were saying that that part of the Bill—so I was just picking it up as it was not mentioned. Madam Chair, the Electronic Payments into and out of Court, section 14(2) says:

“The Court Executive Administrator may issue or cause to be issued, a pre-paid card to be used for the electronic payment of fees...”

There is nothing here that talks about the—and the chapeau does not have anything that is recorded in the amendment.

Mr. Al-Rawi: Yes, I understand exactly what the hon. Senator is referring to, and perhaps I could clarify. So Act No. 14 of 2018 did not have this. We amended, this Parliament amended Act No. 14 of 2018 by Act No. 19 of 2018, and that is where the words come in. And now we are amending that No. 19 of 2018. I understand that obviously we do not have the laws yet all brought up to speed to show what the current amendments are, but we did take a look.

Sen. Chote and Sen. Dillon-Remy, what we are amending is the amendments to that law that we cause by Act No.19 of 2018, and not as it appeared in No. 14 of 2018.

Sen. Chote SC: Thank you, Madam Chairman. I just could not find it, not even on the Parliament’s website.

Mr. Al-Rawi: I apologize.

Madam Chairman: Sen. Dillon-Remy.

Sen. Dr. Dillon-Remy: What is in the column here, is Act 19, instead of Act 14?

Mr. Al-Rawi: No, so what happened is that 19 amended 14. So when we are amending 14 it is as has been amended. So we go back to the original Act, which is No. 14.

Sen. Dr. Dillon-Remy: Okay.

Mr. Al-Rawi: Normally these things would become “Chap. X” of “Y”, but until No. 14 of 2019 becomes a chapter of the Laws of Trinidad and Tobago, we still refer to it that way. So if you look to the previous clause where we amended the criminal division, we call it No. 12 of 2018. If you look importantly to the one just before that, the Administration of Justice (Indictable Proceedings) Act, in the marginal note you would see No. 20 of 2011. This Parliament, we have amended that three times since then. So all of the amendments backfill into the pot of the original Act, and that is why we make the marginal note reference back to the original Act.

Sen. Dr. Dillon-Remy: Okay.

Question put and agreed to.

Clause 37 ordered to stand part of the Bill.

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

Senate resumed.

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

5.30 p.m.

Madam President: Hon. Senators, at this juncture, the sitting will be suspended and we will return 10 minutes to six.

5.36 p.m.: *Sitting suspended.*

5.50 p.m.: *Sitting resumed.*

Madam President: Attorney General.

DOMESTIC VIOLENCE (AMDT.) BILL, 2020

House of Representatives Amendment

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President.

Madam President, I beg to move the following Motion standing in my name:

Be it resolved that the House amendment to the Domestic Violence (Amdt.) Bill, 2020 listed in Appendix II be now considered.

Question proposed.

Question put and agreed to.

Clause 10.

House of Representatives amendment reads as follows:

Delete all the words after the word “amended” and substitute the words “by inserting after the word “before”, the words “, during or after””.

Madam President: Attorney General.

Hon. Al-Rawi: Thank you, Madam President. Madam Present, clause 10 amends section 9 of the Domestic Violence Act, and section 9 of the Domestic Violence Act treats with the concept of a Protection Order being granted where one has an undertaking on the record. So section 9 of the Domestic Violence Act treats with undertakings, the original law as we have crafted it says.

“9(1) In proceedings under this Act the Court may at any time before the taking of evidence, accept an Undertaking from the respondent given under oath, that the respondent shall not engage in conduct specified in the application or any other conduct that constitutes domestic violence.”

It goes on to say that:

“(2) Where an Undertaking is given under subsection (1) the Court shall make a Protection Order or Interim Order, as it deems fit, in respect of the Undertaking.”

We, in the Senate, had agreed with the recommendations coming from the wide group of stakeholders that we allow for that undertaking to be given only after the taking of evidence. And the focus group that proposed that, was of the

view that if persons were to receive the undertaking prior, some people may be intimidated by the fact of the evidence not being given fully, the four corners of the dispute would not be known. The Senate agreed, therefore, that we should only provide for the undertakings after the giving of evidence.

Upon passage of this in the Senate, we went to the House of Representatives and members of the legal fraternity reached out in particular very distinguished member of the bar, Ms. Lynette Seebaran Suite reached out and asked for a second thought. This was echoed by a number of the coalition entities, and Ms. Roberta Clarke herself also reached out as well to indicate that we ought to take a phased approach to the law, and that perhaps we ought not to go so quickly into evidence after undertakings, after evidence, but to allow instead for the undertaking to be given before, during or after the giving of evidence.

There is a great deal of merit with that approach and therefore, in taking a phased approach towards the law, it is sensible in all of the circumstances that we revert to the position of undertakings being given prior to the giving of evidence. We bettered that position to say, it may be given during the giving of evidence or after allowing for judicial discretion.

It struck me that that form of amendment would feed the separation of powers argument and preserve it, because for Parliament to say that an undertaking ought not to be received from a voluntary respondent until after the giving of evidence, may have unwittingly destroyed the separation of powers principle and therefore, in all of the circumstances, I think that the law has gone to work well in the Parliament. And I wish to express my profound gratitude to the members of the Bar that reached out on this particular approach and to say that, of all the laws that I had the pleasure of drafting for the last five years, this one gave me one of the greatest experiences of joy, particularly because of the comradery that was

exercised in the creation of the law. I want to thank the members of the Bar, I want to thank the Office of the Prime Minister, the Children's Authority, the Attorney General's Office and the multitude of stakeholders for really coming up with what I think is excellent law. I beg to move.

Question proposed.

Madam President: Sen. Mark.

Sen. Mark: Thank you very much. Attorney General, the people that you have to thank, first of all, are us, the Members of this honourable Senate, without us this Bill will not be law, so I think that you must also take into account our presence and our contribution.

Madam President, as I would not want to place any objection into this particular matter before us. I think the Attorney General, even though I just got it a few moments ago, that is not the Order Paper, but the actual invitation to engage in this deliberation as we are doing now, and I could appreciate the point that Attorney General has made in the context of giving the persons, the respondent, in this instance, under section 9, the possibility of providing evidence or an undertaking, I should say, before, during or after, and that would give greater flexibility in the context of the issuance of a Protection Order or an Interim Order.

So, we have all supported the legislation; unanimously, we did, and I would not want to in any way discontinue that in any way. So, Madam President, I support the amendment as proposed by the hon. Attorney General and, I thank you very much.

Madam President: Attorney General.

Hon. Al-Rawi: I beg to move. [*Desk thumping*]

Question put and agreed to.

KABIR ASSOCIATION OF TRINIDAD (INC'N.) (AMDT.) BILL, 2019

Question put and agreed to: That a Bill to amend the Kabir Association of Trinidad (Incorporation) Ordinance, 1932, be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Question put and agreed to: That the Bill be reported to Senate.

Senate resumed.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

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, June 30th, that is tomorrow, 2020, at 1.30 p.m. during that sitting we will complete the committee stage of the Urban and Regional Planning Profession Bill, 2019.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised. Sen. Mark. [*Desk thumping*]

Collective Agreements

(Government's Failure to Settle)

Sen. Wade Mark: Thank you, Madam President. The first matter that I would like to address is the failure of the Government to settle the collective agreements in the public sector over the past four and a half years, and its impact on the quality of life of the workers.

Madam President, workers all over Trinidad and Tobago are expressing regret at having voted for the PNM Government. This Government has squandered the wonderful platform that the People's Partnership Government left when we

settled over 100 collective agreements valued at over \$3 billion, bringing up to date and ensuring that workers could comfortably take care of their family.

The Government is now asking the workers to measure their success on the number of consultations and symposia, but not a single collective agreement has been settled over the last four and a half years. And with a rate of inflation averaging just under 10 per cent during the last four and a half years, it means that the workers' pay has been diminished by about that same percentage, Madam President. Is it that the Government wanted to punish these workers during the period that they have been in office? Is it that it is the wish of the Government to push these workers down, based on their bad decisions given by persons like Malcolm Jones which resulted in tens of billion dollars in debt, in addition to the debt incurred by others in this Rowley administration? Madam President, if we compare our total debt to what little they will leave from our savings, we may very well be considered bankrupt.

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

This Government has kept public servants and employees of state enterprises and agencies on full pay during the lockdown only because it is an election year, otherwise they would have been laid off without pay, as most have been in the private sector. They want to call the election so they could use the COVID-19 as their campaign platform, but they are becoming very anxious that the massive protests, planned by workers for pay increases, can derail the fragile COVID-19 platform.

Mr. Vice-President, workers know when is the best time to protest during this Government's reign. In fact, they know only too well, by protesting, they can get results from this Government. The PNM finds itself in a catch-22 situation. Should they call a snap election by the middle of this month with workers

marching for peace, bread and justice? Or should they call the elections later and risk the dissipation of the novelty of COVID-19 campaign wearing thin?

Mr. Vice-President, what will they tell you about your salary negotiation, that is the workers, when they come looking for votes? It is the same old “blame Kamla, blame falling oil prices” and, Mr. Vice-President, if you make the mistake and vote for the PNM, we are predicting a wage freeze, retrenchment, closures, and heaven forbid, Mr. Vice-President, you may have major wage cuts as occurred in 1987 and '88.

In 2010, we developed a database of all collective agreements and took proactive measures to ensure that none was left behind. We communicated regularly with all state sector companies and agencies. We insisted that they move forward with their negotiations, and if they could not settle bilaterally, we took steps at the Ministry of Labour and Small Enterprise Development to bring them in for conciliation.

The OWTU and T&TEC will remember when they got stuck at the bilateral level and the workers were becoming restless, we did not wait for a report to be made, we intervened in the dispute, and where it became protracted, we quickly referred to the Industrial Court in a matter where it was eventually settled.

Mr. Vice-President, we were quite honest in our dealings with the unions. We did not hide from them the financial status of the country. You may recall when we could have afforded to pay only 5 per cent, we settled with the PSA at 5 per cent, and later when we could have afforded 9 per cent, we were honest in settling Petrotrin and others at 9 per cent. But we also went back and those who had been settled at 5 per cent were upgraded to 9 per cent.

Mr. Vice-President, the PNM, under the outgoing Rowley administration, has settled not one agreement. It only came to take away from the workers, bread

from their mouths. The PNM has spent as much, if not more, than the Partnership over the five-year period, so why did they not pay workers their well-deserved salaries? They needed it, these workers needed it badly to pay their children's education from the loss of GATE. They needed it to pay for increased prices for food with the reinstatement of VAT. They needed it to pay for private health care services since the health care sector is unreliable. They needed it to pay for transport because gas prices had increased several times, and to the workers credit, they did not riot, Mr. Vice-President.

The Government's spent our taxes, they used the HSF savings, they borrowed heavily from international institutions, they mortgaged to the Chinese. Why did they not pay workers their just dues? The nurses are fed up, and recently reminded us that on the previous occasions that they had marched in 1981 and 1990, significant things happened in this country. And in Tobago, the PNM is justifiably accused of creating a dependency syndrome with more than half of the working population dependent on taxpayers' money.

Mr. Vice-President, look at the budgets over the years, the Government had money, so why did they not settle a single collective agreement? There is a feeling among some unions that the PNM is anti-worker and has been engaged in union busting strategies. To use Petrotrin, as an example, the closure of Petrotrin would have effectively removed the most powerful OWTU and its capacity to function as a political pressure group when required. The PNM has been consistent in its emasculation of the powerful unions that shape the political life and industrial relations in this country. They did the same—time is up. Thank you very much.

Mr. Vice-President: The Minister of Finance. [*Desk thumping*]

The Minister of Finance (Hon. Colm Imbert): Thank you, Mr. Vice-President. I cannot believe somebody wrote that. First, let me correct Sen. Mark's usual

inaccuracies, flights of fantasy, figments of his imagination. The inflation rate in Trinidad and Tobago is not 10 per cent, it is 1 per cent. Sen. Mark tends to just make up these numbers as he goes along.

In addition, the former administration increased public expenditure from 46 billion in 2010 to 64 billion in 2014. This administration has managed to keep the country running on an annual expenditure in the vicinity of \$50 billion. So it is just wrong to say that this administration has spent the same amount of money as the former administration. We have, in fact, reduced expenditure by 20 per cent or approximately \$10 billion per year.

Coming now to wage negotiations, the former administration, on the eve of the 2015 election, entered into a number of agreements with various trade unions, gifting the incoming PNM administration a back pay bill of \$6 billion, which we have paid. It was not easy. It was very, very difficult, because having ballooned public expenditure up to \$64 billion and with total collapse of energy prices in 2014 to 2015/2016 period, we suffered a loss of \$20 billion in revenue on an annual basis. Notwithstanding all of that, we still managed to pay the back pay of \$6 billion.

I would like to inform hon. Senators—I really do not have really much to respond to Sen. Mark's rhetoric—let me just inform hon. Senators what it will cost Trinidad and Tobago, what various wage increases would cost, if for want to—if an increase of 3 per cent over the period 2014 to 2016 was paid at 1 per cent per year with consolidation of COLA and the salary and allowances that have been determined by the Chief Personnel Officer to be justifiable, the cost would be \$3.8 billion. And I am speaking to hon. Senators, as I said, I do not much time for Sen. Mark. So I want to repeat that. If an increase of 3 per cent over the triennium at 1 per cent per year with the salary and allowances that the CPO has determined

to be justifiable, that will cost \$3.8 billion.

What I can also say is that pre-COVID, the Ministry of Finance had submitted a number of submission to Cabinet with respect to the settling of collective agreements and making recommendations and pre-COVID, we had prepared a proposal to start discussing the question of improving allowances for public servants. And might I add that the estimated manpower, the workforce that we are talking about is 89,000 workers which essentially comprises of the civil service, statutory authorities, the Tobago House of Assembly, the protective services, defence force, police, fire, prisons, daily-paid group, the various local government corporations and others. The total number of workers is 89,000.

And just prior to COVID in March, the Ministry of Finance had begun the process of starting to meet and treat with the unions to discuss improving allowances. The cost of that was estimated at \$765 million, but we were prepared to do it. We were prepared to start the discussions, however, I am afraid that COVID caused that matter to be deferred, because as everyone in Trinidad and Tobago will know, COVID has caused us to lose about \$10 billion in our annual income, so we as a country have to be very, very careful.

I know the other side may wish to promise the sun, moon and stars, but I wish to warn the population that the other side's economic plan post-COVID is a massive devaluation of Trinidad and Tobago dollar, which we do not intend to do. Thank you, Mr. Vice-President.

6.20 p.m.

Mr. Vice-President: Sen. Mark.

Chaguaramas Development Authority
(Filling of Vacant Position)

Sen. Wade Mark: Thank you. Thank you. Mr. Vice-President, the other matter I

wish to raise deals with the need for the Government to outline step by step the process used by the CDA in its recent filling of the position of general manager. And I raise this, and I put questions to the relevant Minister. Mr. Vice-President, the first question is, how long has the general manager of the CDA been acting? On what basis was the acting general manager given preference to act? Is there a family relationship with the current acting general manager and the Prime Minister? Is there a family relationship between the current acting general manager and the wife of the Prime Minister? What are the qualifications of the current acting—

Mr. Vice-President: Sen. Mark. Sen. Mark. Sen. Mark, one second. Again, as much as it is matters on the adjournment, the commentary and the line that you are going down is becoming dangerously close to imputing some improper motive in relation to the appointment of the particular individual to that institution. I would caution you strongly to be careful, the line that you are going down.

Sen. W. Mark: Mr. Vice-President, we are dealing with taxpayers' money, eh. Were there any senior members of staff who were overlooked for the position of acting general manager and that person sent to PLIPDECO? The person who was acting before, was that person sent to PLIPDECO, Mr. Vice-President, and why? Is the deceased husband of the acting GM the cousin of the Prime Minister? Is the acting GM, that is the general manager, the sister of one Sharon Rowley? How long has she been working at the CDA? What are the terms and conditions of employment?

Hon. Al-Rawi: Mr. Vice-President, Standing Order—

Mr. Vice-President: Sen. Mark.

Hon. Al-Rawi: I rise on Standing Orders 46(4) and 46(6). I think my friend needs to bring a substantive Motion against the Prime Minister. This is not an

appropriate forum to impute improper motives. I ask for your ruling.

Sen. W. Mark: I am just asking a question.

Mr. Vice-President: Sen. Mark, as I indicated earlier, and I am going to uphold the Standing Order being raised by the hon. Attorney General, the commentary that you are raising in the matter of adjournment is or can be taken by the average person listening to mean that there is some improper motive taking place by what you are saying, [*Interruption*] Sen. Mark! So I am ruling that you are in breach of the particular Standing Order as it relates to imputing improper motive. If that is the entire argument that you are bringing forward then I am going to ask you to move on if you have any other points in relation to the matter on the adjournment.

Sen. W. Mark: Mr. Vice-President, I am dealing with taxpayers' money, and this is not any private individual that we are talking about here. We are talking about taxpayers' money, and I think that for instance without—

Hon. Al-Rawi: I rise on Standing Orders 46(4) and 46(6). I am talking about a Member of the House of Representatives which our Standing Order treats with, Mr. Vice-President.

Sen. W. Mark: Well, you have ruled already so let us go.

Mr. Vice-President: So Sen. Mark, again, I have cautioned.

Sen. W. Mark: May I continue, Sir? I understand what you are saying, Sir.

Mr. Vice-President: So I have cautioned.

Sen. W. Mark: I understand.

Mr. Vice-President: You are not to go down that road of the argument that you are putting forward now. There is a matter on the adjournment that you have put forward which you are making a case for, but that argument is in breach of the Standing Orders raised. If you have another argument in relation to the matter on the adjournment, bring it forward now.

Sen. W. Mark: Mr. Vice-President, I am raising a matter in which I am seeking to find out what are the terms and conditions of engagement of the acting general manager of the Chaguaramas Development Authority. Mr. Vice-President, you must know that the former acting general manager of that Authority left on the 1st of March of this year, 2020, and a new acting manager started to act on the said day, the 1st of March, 2020, and what I am asking here is that this portfolio of the CDA is one in which there is plenty of state property land on the western peninsula, and therefore I am asking as a Senator whether for instance this process was above board? I am asking for transparency, I am asking for accountability, I am saying that the Government needs to account to this country as to how this individual arrived at the post of general manager, which I am entitled to do, and I am not imputing any improper motives, Sir, against anybody. I am just asking questions.

So, I am asking, Mr. Vice-President, whether these individuals—first of all, if the Attorney General is going to respond, let him tell this Parliament what are the qualifications of this individual who is the acting general manager of this particular important institution? Whether there was one Deowattee Dilraj-Batoosingh, who was acting as general manager for a number of years, why that person was not allowed to continue to act. Why was this individual sent off to PLIPDECO? Was it to create a preferred incoming candidate?

Mr. Vice-President: Sen. Mark, this is exactly what I am saying. What you just said borders upon imputing improper motives, and I am just going to point out that the matter on the adjournment as filed speaks to the process by which a general manager is appointed to the CDA, and what you are actually saying is that a particular individual is appointed and you are questioning the individual and the connections that they may have, hence the ruling that you are imputing improper

motive. You only have three more minutes yet on the matter of adjournment. Again, if that is the argument I am going to ask you to desist from that argument and stick to what is filed in the matter of the adjournment.

Sen. W. Mark: I would like to ask, through you, Mr. Vice-President, who confirmed the acting appointment of this general manager? Was it the board of directors? Is there board minutes that the AG, who might be responding, is able to produce to substantiate this matter? Mr. Vice-President, this is a matter of public interest, and that why I have raised it. So I have asked, through you, to the Government to answer. We want to know the process that was involved. We want to know how this person was recruited. We want to know if there were advertisements made for this particular post, because this is a very important post within the CDA.

And I do not want to burden you any further, we have a general election and if the Government does not answer us here they will have to answer us on the campaign trail. This is a very serious matter. They accused this PP and ourselves of nepotism, favouritism, corruption, that the Kamla Persad-Bissessar administration “tief”, and they used all kinds of things, and when we come here with a Motion to deal with reality as to what is taking place at the CDA, everybody is jumpy, everybody frighten, everybody saying improper motives. All I ask for is answers to this question on behalf of the citizens of Trinidad and Tobago, and if they do not give us straight answers, I give you the assurance, Mr. Vice-President, answers will be given to the public when they call the elections on the 9th of July for the 17th of August. We are waiting for them and we will eat them raw. Thank you. [*Desk thumping*]

Mr. Vice-President: Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Mr. Vice-President, were it not for your many interventions, we would not have gotten the one minute when Sen. Mark actually spoke to his Motion, and perhaps, Mr. Vice-President, we should advocate for the word “factitious” to be included in the dictionary. Factitious. Something that sounds like a fact but it is really fictitious. [*Desk thumping*] Because, Mr. Vice-President, the Government came here to answer the Motion, and even Sen. Mark throughout, it is almost like the Aripo farm all over again. Throughout his Motion he spoke to the uselessness of the Motion, because the Motion asks about the step by step process for the CDA in its recent filling of the position of GM. Well, Mr. Vice-President, Sen. Mark, and this is no allegation, I knew when he was in the leadership of the trade union. He was a research officer. I considered that to be in the leadership. He was not high up, but he was there. And you must know that you cannot fill a position and have someone acting in the position.

Hon. Al-Rawi: “Ohhh.”

Sen. The Hon. C. Rambharat: So the position is not filled. In answer to the Motion I would say there is no recent filling of the position of general manager at CDA. There is no current filling of the position. There is a vacancy, and a process has been undertaken to fill the position. So that is the first thing. There is no filling.

The second thing, Mr. Vice-President, is that in his war of words he has attacked several individuals, including the former general manager. So I want to place on the record, Mr. Vice-President, that Deowattee Dilraj-Batoosingh was not the acting general manager, and was not moved out to make room for anybody. Ms. Batoosingh was in fact confirmed as the general manager. She held the position of general manager, having previously held legal positions in the

Authority. She resigned in February 2020, and her resignation was due to take effect on March 31, 2020. The board's term of office was coming to an end on March 15, 2020. So, Ms. Batoosingh resigned on her own volition to take up a position in PLIPDECO. Faced with the resignation of the general manager, the board had to put someone to act as general manager, and Sen. Mark knows. He knows how it works. CDA is a unionized environment, Mr. Vice-President. If anything had gone wrong in this process you would have heard it from the PSA, not from Sen. Mark. So that, Mr. Vice-President, the board having received the resignation and facing the end of its own term, placed an advertisement for the position on March 04, 2020, that is within days of the resignation of Ms. Batoosingh. The advertisement was placed on caribbeanjobs on March 4th, with a closing date of March 11, 2020.

Mr. Vice-President, in line with well-established procedures, especially in a unionized environment, the person identified by the board of directors to act in the position of general manager was the person who was the next most senior person in the Authority. That person, Mr. Vice-President, was recommended by the outgoing general manager. As I said, Ms. Batoosingh's resignation was due to take effect on March 31, 2020. This is in the early part of March, an advertisement placed to recruit a substantive GM, March 4th, closing on March 11th. Board leaving on March 15th, and the outgoing nominating the next most senior person in the organization in line with collective agreements, good industrial relations practice. That is how it is done and Sen. Mark knows that.

Mr. Vice-President, at the third special meeting of the board held on March 05, 2020, the board noting the recommendation of the outgoing GM, noting that the person was the most senior person after the GM, noting that there was support from the representative union, the Public Services Association, the board agreed to

the acting appointment of someone as general manager. Since then, Mr. Vice-President, the recruitment process has yielded 94 applications by the closing date, March 11, 2020. There was an interruption in the process on account of the COVID Regulations, the board itself went off on May 15th. On April 17, 2020, the board was advised of its reappointment, and on June 22nd the CDA returned to full operations, and will now proceed as along the lines it had set out in early March when the position was advertised, it will now proceed with the 94 applications received to identify if there is a suitable candidate to fill the position, to use the words of Sen. Mark's Motion, to fill the position of general manager. Anything outside of that, Mr. Vice-President, is factitious. I thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.37 p.m.