

SENATE

Friday, June 18, 2021

The Senate met at 10.00 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon Senators, I have granted leave of absence from today's sitting to Sen. David Nakhid who is ill.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, I am awaiting the correspondence from Her Excellency, and therefore, we will to revert to this item on the Order Paper a little later in the proceedings.

PAPERS LAID

1. Annual Report of First Citizens Depository Services Limited for the year ended September 30, 2020. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Telecommunications Authority of Trinidad and Tobago for the year ended September 30, 2013. [*Sen. The Hon. C. Rambharat*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority - Environmental Trust Fund for the year ended September 30, 2020. [*Sen. The Hon. C. Rambharat*]

UNREVISED

URGENT QUESTION

Madam President: Sen. Mark.

WASA Disconnection Drive**(Impact of)**

Sen. Wade Mark: Thank you, Madam President. To the Minister of Health: Given the mandate by the Ministry of Health to frequently wash and sanitize hands, can the Minister indicate how has WASA's recent disconnection drive been impacting said mandate?

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, the Ministry of Health's guidelines remain the same, that is the three W's, to wear your mask as we have been doing here in this House and across the country, to wash your hands and, the third one, to maintain a safe distance from each other particularly in confined areas. I thank you very much, Madam President.

Madam President: Sen. Mark.

Sen. Mark: Madam President, in light of WASA's decision to commence disconnection of delinquent customers, can the hon. Minister indicate how will this policy impact on this particular "W" of washing your hands in the context of this COVID-19 pandemic?

Sen. The Hon. C. Rambharat: Madam President, with the greatest of respect, not even the wizardry of Walt Disney could get me from this urgent question to that supplemental question. The question asks about the mandate from the Ministry of Health to wash and sanitize hands and I have responded to the mandate by making it clear, it is not just washing and sanitizing hands, it is wearing the mask properly and it is also maintaining a safe distance particularly in confined areas. And if my

friend wishes to engage in a discussion on WASA policy he is free to direct that question to the appropriate Minister. It is inconceivable that this urgent question could bring us to that supplemental question and I say so most respectfully.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the Minister indicate whether the Minister of Health will be holding meetings or some conversations with his counterpart in Public Utilities with a view of resolving this matter which can have consequences for our control of the spread of the COVID-19 virus? Can I ask that through you, Madam President?

Madam President: Minister.

Sen. The Hon. C. Rambharat: Madam President, I am not even aware of the matter that is before us. The matter that is before us—not even aware of the WASA matter. The matter before us deals with the mandate of the Ministry of Health to frequently wash and sanitize hand, and I have confirm yet again that the mandate is that, to wear masks and to maintain a safe distance particularly in confined areas. Thank you.

ANSWERS TO QUESTIONS

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, there are three questions for oral response today. The Government is prepared to respond to two questions. Those are No. 109 and No. 111. Respectfully asking for a deferral of two weeks on question No. 110. Thank you.

ORAL ANSWERS TO QUESTIONS

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

EFCL - \$100 million Levy

(Details of)

110. Sen. Wade Mark asked the hon. Minister of Education:

As regard the levy in the sum of one million dollars on the Education Facilities Company Limited (EFCL) by a contractor, can the Minister indicate the following:

- (i) how many contractors are still owed monies by the EFCL for works completed prior to December 31, 2020; and
- (ii) what is the sum of said monies owed?

Question, by leave, deferred

EFCL - \$100 million Levy

(Status of)

109. Sen. Wade Mark asked the hon. Minister of Education:

Having regard to the levy in the sum of one million dollars on the Education Facilities Company Limited (EFCL), can the Minister advise as to the following:

- (i) what is the company's current financial status; and
- (ii) does the company have the requisite resources to complete any outstanding works prior to the return of examination students to schools next term?

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, at present the Education Facilities Company Limited (EFCL) is managing a massive debt burden. The situation was brought on by an overly ambitious and financially unsustainable school construction programme embarked on during the period 2010—2015, with

several large construction contracts awarded in the last two years of the former administration's tenure. In its current mode of operations, the EFCL faces many constraints that have compromised its capacity to fulfill its mandate.

Cognizance of its encompassing responsibility to provide and maintain safe supportive environment for the nation's schools at all levels, pre-primary, primary and secondary, the Ministry of Education took practical steps to ensure the continuance of its programmes for the construction, repair and improvement of schools' infrastructure like transferring the agency for essential project management services from the EFCL to the National Maintenance Training and Security Company Limited (MTS).

Madam President, since the end of 2018 the MTS has been rendering the required project management services on behalf of the Ministry of Education in the conduct of repairs, improvement and construction of early childhood care and education centres, primary schools and secondary schools. As a result, Madam President, work on the schools' infrastructure is ongoing and continues. Thank you.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the hon. Minister indicate what decision does the Government contemplate as it relates to the future of this particular company? Can he share with us, Madam President?

Madam President: No, Sen. Mark, I would not allow that question.

Sen. Mark: Madam President, can the Minister advise this honourable Senate whether he can share with us what is current status of the employees of this particular company whose salaries and other personal emoluments have not been met for the last six months? Can the hon. Minister—

Madam President: Sen. Mark, that question does not arise.

Sen. Mark: Madam President, seeing that we have been advised that MTS has taken charge of the various projects as it relates to school repairs and other activities in time for the upcoming term, September, can the Minister indicate what then will happen to this education facility development company?

Madam President: Sen. Mark, that question is not allowed.

Sen. Mark: Okay. Can I then ask the hon. Minister what is the status, the financial status, we have, or could he indicate, Madam President, what is the outstanding sums owed by this company to various agencies under its jurisdiction? I am talking about contractors in this instance, can he share that with us?

Madam President: Sen. Mark, that question is not allowed and I would ask you to have a look at question 110 which has been deferred for two weeks in light of that question you just posed which I would not allow. Okay?

Sen. Mark: May I ask a final question?

Madam President: No, you have exhausted your supplemental.

Sen. Mark: Okay. Thank you.

Madam President: So next question.

Diego Martin North Secondary School

(COVID-19 Measures taken)

111. Sen. Wade Mark asked the hon. Minister of Education:

In light of the February 2021 reports of a teacher at the Diego Martin North Secondary School contracting the COVID-19 virus, can the Minister indicate what measures have been taken to safeguard the other teachers and students at the said school?

Madam President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President. Madam President, prior to

the opening of school for face-to-face instructions on February 08, 2021, the Ministry of Education in collaboration with the Ministry of Health and key stakeholders developed health and safety guidelines for use in schools that are in keeping with the health and safety protocols as outlined by the Ministry of Health. Additionally, Madam President, the Ministry has established its education district health unit with the assignment of nurses, the seven education districts who are under the supervision of a house doctor stationed at the Ministry's head office.

The education district health unit provides on-site and real time intervention for managing COVID-19 related issues. As such, protocols and procedures already in place were initiated for the COVID-19 case at the Diego Martin North Secondary School to mitigate the spread as follows, Madam President:

- Immediate isolation of the suspected case;
- Forwarding of the information to the County Medical Officer of Health for testing;
- Quarantining of the teacher; and
- Sanitizing of the areas and equipment utilized by the teacher.

Furthermore, Madam President, the following protocols for Diego Martin North Secondary School continued as part of its normal daily operations: temperature checks and hand washing as standard entry protocols; wearing of mask by all personnel and visitors to the compound; placement of appropriate signage with respect to COVID-19 hygiene practices; furniture arrangement for appropriate physical distancing; routine sanitizing of space and equipment used by staff, students and visitors.

Thank you very much, Madam President.

GAMBLING (GAMING AND BETTING) CONTROL BILL, 2021

Order for second reading read.

Madam President: Minister of Finance

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam President. I beg to move:

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

Madam President, an overhaul of the gambling framework in Trinidad and Tobago has been outstanding for a very long time—and may I ask how many minutes I have?

Madam President: You have 45 minutes.

Hon. C. Imbert: Thank you very much. The gambling sector is governed by archaic legislation which predates the advent of the cellular phone in 1973 and the Internet in 1983, and other modern mediums through which gambling now takes place all over the world. I want to repeat that. Our current gambling laws predate the advent of the Internet which is one of the main areas of gambling now at this time.

This sector continues to be unregulated in Trinidad and Tobago despite the fact that the legislation is archaic. The outdated gambling framework is also not in sync with our international obligations with respect to the Financial Action Task Force revised 40 Recommendation which in themselves have had over 10 updates since the original revisions in 2012. To give an overview of how dire the situation is from an AML/CFT compliance perspective, I will quote from paragraph 90 of the Trinidad and Tobago's Third Round Mutual Evaluation Report of May 2007 as follows:

Private Member Clubs: There are twenty Private Members Clubs registered with the Board of Inland Revenue which operate casinos. Let me repeat that. In 2007, the FATF had determined there were:

“...twenty Private Members Clubs in Trinidad and Tobago which were operating as Casinos. In addition there are one hundred and forty-seven recreation clubs which entertain gambling activities on a smaller scale. There is no Association of Private Members Clubs or recreation clubs in Trinidad and Tobago.”

This is in 2007.

“Private Members Clubs are monitored by the Miscellaneous Taxes Department at the Board of Inland Revenue through field visits and audits... No AML/CFT guidelines or AML/CFT reporting system is in place for Private Members Clubs.”

I will now move on to paragraph 12 and 318 from Trinidad and Tobago’s Fourth Round Mutual Evaluation Report, June 2016.

“Private Members Clubs: There is a significant presence of...”—private members clubs—“within the country which provide gambling activities through gaming tables and machines that are similar to casinos. The high-cash turnover of these institutions, the nature of the clientele and the non-rigorous application of AML/CTF requirements are a cause for concern. It is of note that some banks have refused to do business with some of these entities as a result of perceived high risks of the industry.”

That situation of banks not willing to do business with these private members clubs which are really casinos continues:

“318. There are inadequate measures in place to prevent criminals and their associates from holding or being beneficial to owners or having a significant or controlling interest or management function in...”—these entities. “This is a particular concern in...”—private members

clubs—“that provide gambling activities through gaming tables and machines that are similar to casinos in Trinidad and Tobago. Given the significant risks for...”—money laundering and terrorist financing—“by such entities, this deficiency ought to be addressed.”

Madam President, to seal the proverbial nail in the coffin, in Trinidad and Tobago’s Third enhanced follow-up report technical compliance rating June of 2019, Recommendation 28 which refers to the gambling sector was one of four recommendations still listed as partially compliant. The current framework is certainly not geared toward realizing as a country the true potential of the gaming sector as a significant source of Government revenue. That is another significant concern. The estimated revenue that we should be getting from the gambling sector is—but it is considerably more than what we get. What we actually get is a fraction of what it is estimated and determined that we should be getting by way of taxation from the gambling and gaming sector.

In 2017, I am advised the gambling industry’s tax compliance rate in Trinidad and Tobago is just 27 per cent. Two hundred and fifty-three clubs registered, only 69 were compliant with respect to the Board of Inland Revenue; 2018 this dropped to 18 per cent, 251 clubs, only 47 were complaint with Inland Revenue. In 2019, the tax compliance rate it was 15 per cent: 246 clubs registered, only 36 compliant. For the first quarter of 2020, prior to the close of the industry in March 21, 2020, because of public health restrictions, of the 247 clubs registered, only 18—and this was before COVID—had paid taxes to the Inland Revenue Division in accordance with assessment. This is a 7 per cent compliance rate.

It is therefore imperative for these and other reasons, modernization through proper regulation, anti-money laundering, counter-financing of terrorism

compliance, and revenue enhancement that we decided, this Government, since 2016 in the First Session of the Eleventh Parliament, when a previous version of this Bill was brought before this honourable House, that the time has come once and for all to do the patently obvious and bring about much needed change and stability to the gambling sector.

The Bill before the Senate, this Bill, which has been amended to remove the special majority requirements because the Opposition has been resolute in blocking the passage of proper gambling legislation, contains 88 clauses divided into 11 parts. It is a simple majority Bill, and the Attorney General is here and will explain exactly what legislative work has been done on this Bill. Despite the fact that it is a simple majority Bill, the Bill is robust and brings the country in line with international AML/CFT obligations. It is to be noted that the Anti-Terrorism Act is also a simple majority Bill, is also robust and meets international obligations. In other words, much can be done with little.

I now propose to address the salient portions of the Bill, but before I do that I want to read into the record a message I received from persons within the sector. Apparently, a former disgruntled president of the—what is the name of this association?—just a second, Madam President. The Barkeepers and Operators Association of Trinidad and Tobago, they had a change of leadership last year and apparently a former disgruntled president of that association has been meeting with the Opposition, so I am told, in an effort to get the Opposition to protest against this legislation. I want to put on record that the Bill before us has nothing to do with amusement gaming machines. Amusement gaming machines which are the machines that are in bars and are limited in terms of their payout to small amounts are regulated by another piece of legislation, the Liquor Licences Act. And I am

saying this to preempt any false allegations coming from the Opposition that this Bill is going to destroy the bar industry. This Bill has nothing to do with the bar industry. The bar industry and the amusement gaming machines which are used in those bars are regulated by the Liquor Licences Act and not by this legislation.

So coming to the Bill now, clause 2 of the Bill includes a number of definitions set out to marry the provisions of the Bill with existing AML/CFT framework in Trinidad and Tobago. These definitions include a definition of AML/CFT/PF, beneficial owner and supervisory authority. The objectives of the Bill as set out in clause 4 touch upon three main areas that I referred to earlier. Clause 4(a) of the Bill specifically is designed to protect minors and other vulnerable persons from being harmed or exploited by gambling as one of the aims of the Bill. This cannot be understated, Madam President, because the deleterious and dangerous effects of gambling on the young and vulnerable in society are severe.

Part II of the Bill deals with the Gambling (Gaming and Betting) Control Commission sets out matters concerning the status, function and the administrative arrangements of the Commission.

Clause 5, Part II of Bill, establishes the Gambling (Gaming and Betting) Control Commission which will be a body corporate. To ensure accountability from the top, clause 5 of the Bill establishes the members of the board and determines that the members of the board of the Commission should have a background in the gambling industry, law, finance information technology, economics, management, social work or law enforcement.

Subclause (6) of the Bill excludes certain persons from appointment of the board of the Commission which are obvious. The list of ineligible persons would

be persons who operated a gambling establishment prior to the Bill coming into law, currently hold a licence or will hold a licence issued, intend to apply for a licence, or have a financial interest in the gambling establishment. They would not be allowed to be members of the Commission for obvious reasons.

In order to further curtail and abate any questions of influence, clause 6(2) of the Bill establishes a maximum period of eight years in the aggregate for the appointment of any member of the board of the Commission. So there is a term limit, after eight years persons will have to retire from the board.

Clause 12 of the Bill establishes under penalty that members of the board are mandated to submit an annual declaration that they have no actual or contingent pecuniary interest in any licence or proposed licence or licensee regulated or to be regulated by the gaming Commission, or in any business or body corporate carrying on the business with which the Commission has the mandate to exercise its functions. The sum total of all of this is to ensure a functional and independent body charged with functions set out in clause 13(1) of the Bill including regulation and control of the operation of gambling in Trinidad and Tobago, provision of information to regulatory, supervisory and Government agencies, for example, the Board of Inland Revenue, the FIU, the Integrity Commission, the Customs and Excise Division, the Commissioner of Police, Police Complaints Authority and the Betting Levy Board. It will also address through the Rehabilitation Fund and the Development Fund the harmful and negative effects of gambling, and its other important function is to collect fees, taxes and levies.

In carrying out these functions, the Commission is empowered under clause 13(2) of the Bill, among others, to grant, renew, suspend, review, vary amend, revoke or cancel licences, gambling licences that is; verify or cause to be verified

the background, character and reputation of an applicant and any associate employee, relative or other person; direct implementation of a computerized internal enterprise network system or such other processes, or procedures to facilitate interrogation, validation and auditing of gaming and betting; and require verification of all income and other matters relevant to the business for which a licence is granted.

Clause 17 of the Bill gives the Commission the power to hire its own staff and permits the secondment of officers from the public service or a statutory authority. Clause 18 provides a wide source of funding for the Commission including appropriations from Parliament, special grants, moneys collected in respect of licences and so on, moneys borrowed by the Commission, including securities. Clause 18 of the Bill makes huge strides towards establishing the independence of the Commission from possible internal influences in an industry where the stakes are very, very high, and where the potential for criminal activities is also significant.

Clause 24 of the Bill provides that all surplus funds of the Commission are to be paid into the Consolidated Fund. This allows the movement of moneys from under the Commission directly to the Treasury. Given that the Minister of Finance under clause 21(4) of the Bill is responsible for approving the expenditure of budget of the Commission, there is a safeguard preventing the Commission from bolting the stable when it comes to financial acumen. So, the Commission just like the National Insurance Board must submit a budget for the annual period for the approval of the Minister.

Clause 22 of the Bill requires the Commission to keep proper accounts and records in accordance with best practice international standards. The accounts will

be public accounts and subject to the purview of the Auditor General. Clause 23 of the Bill requires the Commission to prepare an annual report to be laid in Parliament similar to other authorities. Clause 28 subjects the Commission to the written laws governing the procurement of goods, works or services in relation to the performance of its functions under the Bill. The effect of all of this is that the Commission will be called to account and Parliament will have the opportunity to ensure the Commission is within the boundaries of the law.

Part III is the licensing regime. Clause 29 casts a very wide net in terms of activities now requiring a licence from the Commission. Clause 30 establishes a minimum of 11 licences as follows:

- a gaming operator's licence to allow persons to operate a gaming establishment;
- a betting operator's licence permitting persons to operate a betting shop;
- a gaming owner's licence permitting a person to own a gaming establishment but not operate it;
- a bookmaker's licence permitting the licensee to conduct betting activities other than pool betting;
- a promoter's licence which permits the licensee to stage live racing and conduct pool betting;
- a gaming machine operating licence which permits the licensee to sell or lease a gaming machine;
- a gaming machine distributor licence which permits a licensee to import and supply licensed gaming machines;
- a technical operator's licence which shall permit a licensee to install,

- maintain and repair gaming machines;
- a premises licence permits licensees to conduct activities approved by the Commission at premises in a licence;
- a personal licence in respect of key employees in licensed betting or gaming establishment; and
- a gaming machine manufacturer's licence which shall permit the licensee to manufacture, fabricate, assemble and programme gambling equipment.

All of these licences will convert the current amorphous, unregulated, unsupervised industry into a properly regulated one.

I want to stress that all reports from the various financial authorities around the world have made the point Trinidad and Tobago is the only country in the world which has an unregulated gambling sector. These provisions not only protect the vulnerable but also ensure that all gambling activities conducted in a fair and transparent manner, and the revenue that is generated from the regime will redound to the benefit of all society, not just those who participate in gambling.

10.30 a.m.

Clause 31 of the Bill further cements the role of the Financial Intelligence Unit as its advisory authority responsible for anti-money laundering and so on and that is the proper entity to be responsible for AML/CFT/PF supervision of gambling establishments.

Clauses 32, 33 and 34 set in train the process and criteria for applying for licences. The licensing regime is extremely robust. It is subject to provision of in-depth information by applicants including AML/CFT risk assessment, public scrutiny as the notice of the application for a licence must be published in at least

two daily newspapers inviting the public to comment on the suitability of an applicant for a licence. It allows the objection in writing from residents, teachers from a school and representatives of any religious group in an area where a proposed gambling establishment is to be located. It also allows municipal and regional corporations and THA and other interested parties to make objections in writing if they so deem that to be appropriate. It includes a fit and proper test, an investigation of the applicant and its associates and its employees.

Clause 34(3) of the Bill permits the Commissioner of Police to cause such enquiries to be made as he deems necessary and provide a copy of his findings to the Commission. And therefore, this highlights the fact that we are not about anything that is vacuous or mere window dressing. This will be intense interrogation to determine whether people are fit and proper to operate casinos.

Clause 38 of the Bill sets the conditions for every licence issued by the Commission. Some of the important conditions would be: notification of change in director or beneficial owner, management, control and so on; notification of a conviction of licensee or associate employee; consent to the entry of authorized enforcement officers to any premise; compliance with the Proceeds of Crime Act, the Anti-Terrorism Act, the Economic Sanctions Act or Orders made under those Acts.

Clause 39 of the Bill requires all licences granted, verified, amended, renewed, expired, revoked, et cetera, to be published in the *Gazette* in at least two daily newspapers so the public would be aware of all those persons operating legitimately and persons trying to operate illegitimately in the gambling industry.

Clauses 42 and 43 of the Bill treat with the expiration of licenses, renewal of licences and so on.

Clauses 44 and 45 of the Bill establish a review mechanism inclusive of suspension in the Bill for licences granted by the Commission. This is consistent with the rules of natural justice whereby the Commission is required to notify and inform the licensee of the procedure to be observed during a review, prior to the review, provide the licensee with an opportunity to make representation, answer any questions posed, notify the licensee of any action to be taken and provide all of the defences available under the rules of natural justice.

At the completion of a review, the Commission may take a wide range of action against the licensee ranging from a warning to suspension or revocation of a licence. In the case of a suspension, subject to the rules of natural justice where the Commission believes that an activity is being carried on in a manner inconsistent with the law or the framework of the legislation, a condition of a licence has been breached, the licensee has failed to cooperate with a review, the licensee is unsuitable to carry on the activity, that would allow the Commission to take appropriate action.

Clause 46 of the Bill establishes the process for revocation of licences. There are 14 grounds outlined which range from the failure of the licensee to pay fees or levies, notification of the Commission by the Financial Intelligence Unit that the licensee has failed to comply with the Proceeds of Crime Act, the Anti-Terrorism Act, et cetera, as it relates to proliferation financing or any law related to the prevention of money laundering, proliferation financing and anti-financing of terrorism. Again, it is important to note that the provisions follow the rules of natural justice and any decision of the Commission is amenable to appeal to the High Court.

Clause 47 of the Bill seeks to place an obligation on licensees to notify the

Commission of any change in circumstances.

Clause 50 of the Bill provides for the appeal of any decision of the Commission to be commenced before the High Court within 30 days of receipt of the decision. Again, following standard dispute resolution procedures.

Clause 51 of the Bill establishes a register that is divided into public and private registers. The public register contains basic information such as the name of a licensee, a list of every gaming machine or device granted under a licence and the address of every premises in respect of which a licence is granted. The private register contains confidential information received by the Commission inclusive of AML/CFT/PF risk assessment required to be submitted under clause 32 of the Bill. The Commission is duty bound not to disclose information received during the licensing process that is not contained in the public register unless so requested by the tax authorities, law enforcement agencies or order of the court or the private register. In a democratic society such as ours, this is reasonable as far we are concerned.

Clause 52 of the Bill establishes the obligation of licensees to put in place systems of controls and accounting. Madam President, how much more time do I have?

Madam President: At one minute to 11 so it is 10.38 now.

Hon. C. Imbert: So I have about 20 minutes more or less?

Madam President: Yes.

Hon. C. Imbert: Thank you. Clause 52 of the Bill establishes the obligation of licensees to put in place systems of controls and accounting as required by the Commission. Some of the requirements would be human resource policies, practices, audit of financial statements by an auditor, procedures for the prevention

of money laundering, terrorist financing, procedures for the discovery and prevention of fraudulent or corrupt practices, arrangements and procedures for the safety and security of the staff and the patrons at licensed premises and procedures for determining and recording winnings and the payment of winnings. So this must all be recorded.

Parts IV and V deal primarily with gaming shops, betting shops, premises where gaming and betting activities are carried on.

Clause 53 of the Bill establishes a transitional period of three months from the date the Bill comes into force to permit those operating under the Liquor Licences Act or the Registration of Clubs Act to notify the Commission of their existence and provide proof of their existence and operations. During this transitional period, the establishments operating under the Liquor Licences Act or the Registration of Clubs Act would be required to apply for the appropriate licences. Pending the determination of the Commission on a pending application, the establishment will be permitted to continue operations. Let me repeat that. Pending the determination of the Commission on a pending application for a licence, the establishment will be permitted to continue operations. I wish to emphasize that this applies solely to institutions that were in existence prior to coming into force of the Act. This will apply to persons who own and operate betting shops subject to the provisions of the gambling and betting Act under clause 60 of the Bill.

Clause 54 of the Bill mandates that a game of chance shall be played in person by participants, so not on the Internet.

Clause 56 of the Bill endows the Commission with the authority to designate machines as either amusement machines or gaming machines.

Clause 55 of the Bill makes a distinction between gaming and simply participating in a competition or other arrangement where someone can win a prize, the latter of which is not to be regulated under this Act.

Clause 59 of the Bill exempts gaming that is carried on as entertainment, that is, games held for private gain where the amount for the proceeds appropriated for expenses does not exceed the reasonable cost for facilities provided for the entertainment. This will cover among other things, bazaars and fairs and such other entertainments approved in writing by the Commissioner of Police.

Part VI of the Bill, taxation and money. This Part contains clauses 63 to 66 and deals primarily with the payments of taxes by entities carrying on gaming and betting.

Clause 63 of the Bill reflects taxes payable by a licensee holding a gaming owner's licence on gambling tables and other devices in accordance with Schedule 5. The rate of these taxes are set out in Schedule 5 as at follows:

“For every Baccarat Table	\$100,000.00 per annum
For every Black Jack Table	\$120,000.00 per annum
For every Caribbean Stud Poker Table	\$150,000.00 per annum
For every Dice Table	\$70,000.00 per annum
For every Poker Table	\$60,000.00 per annum
For every Roulette Table	\$120,000.00 per annum
For every Electronic Roulette Device	\$120,000.00 per annum
For every Rhum 32 Table	\$150,000.00 per annum
For every Sip Sam Table	\$150,000.00 per annum
For every Slot Machine	\$24,000.00 per annum”

For every other table or device not listing, \$60,000 per annum and these are

gambling machines. And I want to make a clear distinction between these devices and amusement machines, which I want to repeat, are not regulated under this legislation. The amusement machines in bars are regulated under the Liquor Licences Act.

Madam President, there is an understandable perception that gambling results in a number of social problems and it does. And clause 64 of the Bill establishes the Rehabilitation Fund and the Development Fund. Both intended to ensure that in the economic output of gambling, funds will be directed in a purposeful and socially beneficial manner. The Rehabilitation Fund will financially assist non-governmental organizations and other groups with treating persons affected by gambling addiction and other psychological or physiological problems. The Development Fund will be used to generally assist in areas such as sport, health, social and community work, art and culture.

To ensure that both of these funds can carry out their purposes, clause 61(4) mandates the Commission to deposit two and one half per cent and 5 per cent of the moneys collected from the gambling and betting into the Rehabilitation Fund and Development Fund on or before the end of September in every year. So there is a fixed amount of money that must go into the Rehabilitation Fund and Development Fund every year.

Clause 65 establishes committees for these funds independent of the Commission. These committees will comprise at least five persons who will be responsible for considering applications for funding and disbursing funds to organizations and groups engaged in the activities listed in clause 64(2) and (3) of the Bill. The committees are also required to prepare an annual report on activities and management of the Rehabilitation Fund and Development Fund that will be

laid in Parliament.

Clause 66(3) and (4) of the Bill establish the accounts of the committee as public accounts and this allows scrutiny by Parliament and accountability.

Part VII: Enforcement. Part VII of the Bill deals with the new enforcement procedures and this is one of the areas where we have adjusted the legislation to prevent obstruction by persons opposed to the regulation of gambling. There are two main protagonists under this framework: the authorized officer and the enforcement officer. The enforcement officer pursuant to clause 2 of the Bill is a constable, a police officer, appointed under the Supplemental Police Service Act. These officers are already clothed with the powers of the police. The authorized officer, on the other hand, is an officer of the Commission designated under 67(1) of the Bill.

The difference between the two officers will be derived from the activities that they are required to deal with. The main activity to be performed by authorized officer are set out in clause 67(2) of the Bill and these will be: assessing compliance with the provisions of the Act; assessing whether activities are being carried out in accordance with the licence; assessing whether an offence has been committed. So these are the activities of the authorized officer, gathering information determining whether there is compliance or whether there appears to be an offence.

The authorized officer is allowed under the legislation to monitor the activities of a gambling establishment, monitor and record the collection of funds, question persons on premises whether by consent or at the premises or at the office of the Commission, conduct detailed and complex regulatory administrative and background investigations, investigate complaints from customers and clients of

licensees and require assistance from other regulatory and supervisory Government agencies including FIU, FIB, Inland Revenue, Customs and Excise and so on.

The last-mentioned entitlement which is requiring assistance from other supervisory agencies demonstrates the level of synergy expected between the Commission and law enforcement. There will be close collaboration between the Commission and law enforcement and this must assist in providing effective supervision and prevention of fraud, money laundering, loan sharking, other criminal activities and unscrupulous matters which may occur within this sector including the underreporting of revenue which is a major problem at this point in time. I would think at this point in time, we are possibly collecting 10 per cent or less of the revenue that we should be collecting as a country from the gambling sector.

Clause 67(9) of the Bill provides that an authorized officer may be accompanied by an enforcement officer which is a police officer in carrying out activities.

Turning now to the enforcement officer, a police officer, it is important to highlight that pursuant to clause 68(1) of the Bill, the areas of activities of the authorized officer and the enforcement officer are more or less the same except for one thing. The enforcement officers, police officers, have an additional air of activity relative to assessing compliance with the Proceeds of Crime and other relevant legislation as they relate to proliferation financing and money laundering and so on, prevention of money laundering. The enforcement officer will be able to exercise police powers with respect to the control and treatment of those matters, money laundering, et cetera.

I also want to point out that the FIU will be the supervisory authority

responsible for AML/CFT supervision of gambling establishments, clause 31(1) of the Bill. The application process mandates the submission of an AML/CFT/PF risk assessment, clause 32(3)(b) of the Bill. There is provision of confidential information to the tax authorities and law enforcement agencies, clause 51(6) of the Bill and there is cooperation between law enforcement and the Commission in carrying out the activities by authorized officers. It is an expressed condition of each licence to be granted to consent to the entry of authorized officers and enforcement officers in exercise of the powers under clauses 67 and 68 of the Bill.

I will turn now to a scenario where a gambling operator decides that they will not allow an authorized officer or an enforcement officer to enter their premises. Clause 69 of the Bill, in those conditions, permits an enforcement officer to petition a magistrate for the provision of a warrant. So if in the event there is some casino that has something to hide and they are preventing authorized or enforcement officers from entering, that enforcement officer, police officer, can petition a magistrate to provide a warrant. That is another level of protection of the rights of our citizens.

Clause 70 of the Bill also mandates that an authorized officer who enters onto a licensed premises is required within 48 hours of entry to provide the Commission with a written report outlining details of inspection. So again, that is another check and balance there to protect citizens, that if an authorized officer enters a casino within two days, they must report to the Commission in writing outlining their findings.

Part VIII: Offences and Penalties, clauses 71 to 83 and these deal primarily with gambling and betting offences and dividing into three divisions: “Gaming and Betting Offences”, “Offences in Relation to Children” and “General Offences”.

The first division includes offences such as using premises for gambling without a licence, carrying out gambling activities without a licence, cheating, betting in public places, et cetera.

Clause 76 creates an offence relative to a person in Trinidad and Tobago inviting somebody outside of Trinidad and Tobago to participate in remote gambling. This is a matter that is very complex and we have determined that we are not going to allow this at this time. If in the future, the policy changes and sufficient controls can be put in to allow Internet gambling, then we will revisit it but at this time, we do not think we have the level of sophistication and capacity at this time to monitor Internet gambling generated in Trinidad and Tobago. The fines are quite significant, they are all stated in the legislation. They range from 25,000 and one year imprisonment for some of the less serious offences, to 3 million and seven years' imprisonment for some of the most grievous offences.

Division 2—Offences in Relation to Children are absolutely necessary to protect the young and impressionable in society and touch on persons who may attempt to invite children to gamble, encourage children to enter casinos, employ children in casinos and so on.

“Division 3—General Offences” include for offences not provided elsewhere in the Bill.

We also have allowed for “Administrative Fines”. This is something that is required by international bodies so that there is the possibility of administrative fines through which the Commission may dispense any liability attached to the commission of an offence by the payment of a fine. The power of the Commission to enter into an administrative fine with anybody, however, is expressly subject to the consent of the Director of Public Prosecutions under clause 85(1) of the Bill.

You would not want a rogue commission to assist criminals by simply imposing administrative fines to avoid criminals from making a custodial sentence where it is warranted. So this is why the DPP has to come in and give permission to the Commission to impose administrative fines. 85(6) of the Bill, all moneys recovered by the way of fines are paid by the Commission and credited to the Consolidated Fund.

Madam President: Minister, you have five more minutes.

Hon. C. Imbert: Thank you very much. Part X, just miscellaneous, addresses the Minister's power to make regulations under the Bill and relates to non-disclosure by the Commission and its officers of its information obtained in the course of carrying out their duties, standards clauses.

Part XI is "Consequential Amendments". Clause 88 address the matter of consequential amendments set out in Schedule 7 to the Bill. Schedules 1 to 6 address matters such as the staff of the Commission, fit and proper criteria, internal controls, accounting systems, data requirements they may maintain for each machine, very important. There must be a record of the money deposited into a gambling device and the money paid out by a gambling device, taxes payable on gambling tables and other devices, fines and consequential amendments.

Madam President, we have been at this now, this administration, for almost six years. I have been in numerous Joint Select Committees. I have faced tremendous opposition from Members of the Opposition to this—by some Members of the Opposition and I have also witnessed tremendous support by some Members of the Opposition for this. We in the Government believe this Bill in another form with a special majority was already supported by all of the Independent Members of those Joint Select Committees and voted for by the

Independent Senators. That is when we required a special majority. We went to the other place and the Opposition opposed it for spurious reasons.

I am very hopeful today that this Bill will receive the support of this honourable Senate. It cannot be that we have an unregulated gambling sector in Trinidad and Tobago with foreign interests, with persons from Eastern Europe and the Far East controlling significant influence in our gaming sector without regulation. It cannot be that that situation that has been there for 50 years be allowed to continue. I hope and I pray that this Bill receives the support of this Senate and I beg to move. [*Desk thumping*]

Question proposed.

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, before I call on the next speaker, I will like to revert to the proceedings because I am now in receipt of the correspondence.

SENATOR'S APPOINTMENT

Madam President:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MR. TERON MOHAN

WHEREAS Senator David Nakhid is incapable of performing his duties as a Senator by reason of illness:

UNREVISED

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, TERON MOHAN to be a member of the Senate temporarily, with effect from 18th June, 2021 and continuing during the absence of Senator David Nahkid by reason of illness.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 18th day of June, 2021.”

OATH OF ALLEGIANCE

Senator Teron Mohan took and subscribed the Oath of Allegiance as required by law.

11.00 a.m.

GAMBLING (GAMING AND BETTING) CONTROL BILL, 2021

Sen. Wade Mark: Thank you very much, Madam President. Madam President, this Government is attempting, once again, to railroad this piece of legislation without any consultation with the various stakeholders in the industry and we will demonstrate its attempt to again overregulate an industry which, when you look at the various provisions, will negatively harm its prospects and potential.

As the Government continues to gamble with the removal of the three-fifths majority, as we have seen in this Bill, this may well be the last time they will ever be allowed to do so. In the circumstances we call on the Government not to gamble with the future of the taxpayers. And in this regard, we call on the Government to instruct Petrotrin to file immediately an appeal in the High Court—[*Interruption*]

Hon. Al-Rawi: I stand on Standing Order—

Sen. W. Mark:—to set aside that questionable arbitration award—[*Interruption*]

Hon. Imbert: That one designed that—

Sen. W. Mark:—granted to A&V Oil.

Madam President: Sen. Mark, a Standing Order is being invoked by two Ministers. May I just say to you that, at the very outset, you are straying from the Bill, so I will ask you to get back to it immediately. Thank you.

Hon. Al-Rawi: Standing Order 46(1), please, Madam President, relevance.

Madam President: Attorney General, I just ruled on that and I just indicated to Sen. Mark that he is to come to the Bill immediately.

Hon. Al-Rawi: I thank you, Madam President.

Sen. W. Mark: Madam President, this Bill was introduced like a virtual thief in the night, last Friday.

Hon. Imbert: The Standing Order is imputing improper motives, insulting language, whatever it is—

Sen. Mark: And Madam President, we are less—[*Interruption*]

Hon. Imbert:—I object to it. I object, Madam President.

Madam President: Sen. Mark. Sen. Mark, you know that when someone is invoking a Standing Order just step back so that I can be allowed to rule. Sen. Mark, you have begun your contribution using language that is not really permissible in this Chamber. So I would ask you please to modify your language and continue.

Sen. W. Mark: Madam President, five days this Senate was allowed to look at a very comprehensive piece of legislation containing 88 clauses, some 10 Parts and 11 Schedules, Madam President. This debate, Madam President, is, and the

measures contained in the legislation, will have far-reaching implications for constitutional rights and freedoms which we shall address a little later on in this contribution.

We have been told by the very Government that this industry is valued at about \$12billion and it employs thousands of citizens. We are told in the recent past by the Government and we were told again this morning, that there are some 246 private members clubs. We understand there are over 20,000 amusement and gaming machines being operated in this country. And, Madam President, the industry employs close to—between 7,000 and 10,000 persons directly and another 20,000 benefit indirectly. And, therefore, we must understand that human beings are involved, tens of thousands of them, particularly our womenfolk. We have estimated that close to 80 per cent of those employed in that industry constitute women, Madam President and therefore, it is important to note that the sector offers employment for low-skilled workers, as I said, mainly our single mothers.

We want to make it very clear, Madam President, that this Bill infringes on property rights. It breaches privacy and personal data rights, among others, which I shall refer to later on in this particular contribution. So, Madam President, it is clear to us that this Government is bent on tampering, in a very serious way, with our Constitution which, as I said, this will be the last time such an incursion will be permitted.

Madam President, let us be very straight, be very frank. Why the rush? What is the priority? What is the urgency, particularly in this period of economic lockdown and a state of emergency? What has politically inspired, Judas-driven, this piece of unconstitutional piece of legislation?

Madam President, I recall recently seeing an advertisement which captures,

in essence, how this legislation will impact on the industry. For example, Madam President, the Minister says that amusement machines are not going to be affected because these measures are only located in bars and they are governed by what is called the Liquor Licences Act. But we have been advised that over the last 10 years allowance for roulette devices and multiple player linked gaming machines have been allowed in restaurants and bars. These are now prohibited in the new piece of legislation. And these devices have been in bars for over some 10 years, Madam President. So it is an area that the Minister needs to pay attention to. Would roulette machines be allowed in these establishments? Or given the current legislation, they would no longer be allowed? And if they are allowed they are going to be priced out of their reach and, therefore, only in casinos and Play Whe booths these machines would be found. Madam President, in instances we realize that the tax is going to be increased from \$6,000 to \$60,000, as it relates to amusement machines.

Madam President, you will see in the legislation that some seven, in fact 11 different licences have to be accessed in order to properly and legally be established and to operate as an entity within the industry. Fees are unknown. Landlords are going to be affected because they too will have to access what is called a premises licence. Madam President, even ordinary workers will have to find and access what is called a personal licence. Any judgment or conviction against a person means that there would be no job for that person. So the whole concept of restorative justice, reintegration into our society as well as rehabilitation seems not to have been taken into account by the Government. So, Madam President, there are persons who are involved in this industry, that, at the appropriate time, we would like the Government to indicate what is the real

purpose of this legislation. Is it to create a monopoly in that industry as they promote their new oligarchy? What is the objective?

Madam President, we are very concerned that this legislative agenda of the PNM has come at a time—this particular piece of legislation rather—when our citizens are concerned about their and lives and the lives of their families. It is therefore out of historical necessity that we on the United National Congress Bench, the official Opposition, wish to strongly condemn this callous, uncaring and in humane decision on the part of this administration to debate legislation concerning the regulation of gambling when thousands of citizens, Madam President, are suffering in this society, when they cannot even access lifesaving vaccines, particularly our elderly people or citizens.

Madam President, this legislation also comes at a time when the very industry which the Government is seeking to regulate by this legislation has been materially shut down by the same Government. So on the one hand the Government has shut down gaming totally, rendered it inoperable. But for some reason the Government sees an urgent need to regulate something that is not functioning.

Madam President, there seems to be—and we are not too sure. Is there something more than a genuine desire to regulate gambling that is driving this Government to rush this legislation today? Madam President, this sector has been suffering. It has been shut down. Many of our citizens who are gainfully employed in this sector are currently unemployed and they are not earning an income, Madam President, because of the current conditions. What the industry needs, Madam President, is literal life support. Instead, what the Government is doing, through this legislation, is literally administering a dose of poison.

Madam President, the objects of the Bill are contained in clause 4. What is alarming is that whilst the Government is claiming that it wants to regulate the gaming industry, nowhere is it stated that an object of the legislation is to promote or encourage the commercial success of the said industry. The legislation before us talks about protecting children, preventing money laundering. It mentions creating sustainable employment. But, Madam President, it is silent on creating or facilitating a sustainable gaming industry which can make a contribution to this economy. Such an omission from the very intentions and objects of the legislation sends a clear and unequivocal signal that this Government is not interested in developing this industry, or indeed regulating it. It seems like the Government wishes to shut down the gaming sector.

Madam President, there is a serious need, we all recognize, to diversify our economy. There is a need to enhance our country's profile and create, if possible, a vibrant tourism and entertainment industry. The Government has here a perfect opportunity, with the appropriate consultation, to meet with the sector and take on board serious recommendations, and to make the gaming industry a premium industry in the Caribbean.

Madam President, a misconception which we must address is this notion that the gaming industry, as it exists presently, is unregulated. We heard that from the Minister. The fact is that the gaming industry is subject to quasi-judicial oversight, through a licensing committee, headed by an impartial judicial officer and is required to satisfy the reporting and compliance requirements of no less than that of the Financial Intelligence Unit.

Madam President, the Minister of Finance talked about combatting money laundering and, of course, proceeds of crimes, and to justify measures that will

stagnate and potentially, if not looked at carefully, destroy the industry.

Madam President, let us take an example. The proliferation of the cumbersome, unnecessary, and simply illogical types of licences that someone in the gaming industry is required to obtain needs to be looked at. If you look at section 30, Madam President, of the Bill, there are some 11 licences that are now created. Why would the Government put a business through such a hassle to potentially having to obtain 11 licences to conduct gaming activity?

Madam President, a single licence would be able to achieve the identical purpose as the Bill is currently drafted. The regulator, Madam President, singular licence document, as a matter of condition, would be able to condition what activity should be permitted. The process as is now simply creates unnecessary bureaucracy, Madam President, that would delay and stay the licensing process. And, therefore, the absurdity of this process is demonstrated by the fact that apart from specific gaming activity licences, one would also have to obtain a premise licence, a personal licence, for key personnel. Madam President, this law is drafted by someone who obviously has no clue about obtaining a licence for any type of business. Everyone knows, Madam President, that approving a licence also includes approval of the premises. If your premises are unfit, that is the end of the application, Madam President.

Madam President, this brings me to another point, clause 30(5).

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

He can do that. Madam President, it is clear to us that this is not a practical approach, when we look at the constitutional remit of this Parliament.

Madam President, the Legislature, which is the Parliament, makes laws. The

Parliament may, on occasion, authorize a Member of the Executive, such as a Minister, to make regulations or even subsidiary legislation. But the Minister must do so within the ambit of the parent legislation. Madam President, what is happening here is not what is necessary and appropriate within our parliamentary framework. What the Government is doing is giving the Minister the power to amend, not regulations or to make orders, but to amend primary legislation. The categories of licences are stipulated in the primary legislation. And, therefore, the Minister on his own cannot simply create an order amending primary legislation. So we need to have that clearly outlined and stated in this particular area, Madam President.

Madam President, we look at that section that deals with the Development Fund. We on this side support any measure that is intended to allocate money for education, sport, culture and genuine community work. Our record in Government speaks for itself, from laptops to scholarships, from world-class sport facilities to unprecedented investment in our culture.

However, Madam President, responsible and transparent government means not only commitment to supporting these aims but ensuring value for money and accountability of expenditure. It appears, Madam President, that this PNM Government is allergic to accountability. Their emasculating of the procurement legislation is a matter of public record. Their changes to the system of scholarships away from meritocracy to political patronage is a slur on our education system. Madam President, in clause 64(3), there is established what is called a Development Fund for investment into community development. Is it that this Fund is simply, Madam President, another slush fund for the Government to put money in the hands of the so-called community leaders?

Madam President, we intend to circulate a series of amendments. This Bill professes in its object to protect children. But the first object of this Act states that the legislation is intended to protect minors. Madam President, if the Government is serious about protecting minors, we would want to propose an amendment to this section to substitute “Development Fund” with the “Children’s Life Fund”.

Madam President, this Bill intends to create a position called enforcement officer. “Enforcement officers” are defined as constables appointed pursuant to the Special Reserve Police Act. The question that arises, Madam President: Is it that the gaming commission is going to utilize existing SRPs and incorporate them into the industry? Or is it that the gaming commission is going to hire officers and have them appointed as SRPs? One of the problems, Madam President, with the SRP system is that whilst SRPs are given all the power, privileges and immunities of police officers, they do not undergo the level of training that police officers undergo. Therefore, this section is problematic and, therefore, we would want to pay attention to this section as well, Madam President.

The other philosophical problem is that we are creating a cadre of persons with police officers who are intended to really only function within the gaming sector, Madam President, but would have the ability to exercise police power at any time. Madam President, we have a problem with any attempt by the Government to create any type of parallel police force. We would like the Government to consider instead of making these persons part of the SRP legislation, to bring these people under the Supplemental Police Act. These persons, Madam President, who are estate constables are confined to exercising their power within an estate. So that is an area that we want to pay attention to, Madam President.

Madam President, the Bill gives to the Commission the power to sanction, suspend or revoke licences in clauses 44 and 46 of the Bill. The problem with these, Madam President, is that it simply does not meet muster. Madam President, the Bill in its current form gives this gambling commission the power to deal with licences and to notify the licensee that a review is taking place. Madam President, we would want to emphasize that procedural fairness is very critical in this context.

Madam President, there is provision for regulations in the legislation, yet still there are no regulations before this honourable Parliament. We would like the Government to consider looking at the establishment of a tribunal, independently appointed, which can hear and assess evidence, which is being used against a licensee and therefore this would provide some degree of fairness in this matter of determining whether a licence should be—when it is being reviewed, it should be reviewed by an independent body.

Madam President, this issue of administrative fees, this issue, Madam President, seems to be permitting members of the gambling commission to get involved in the issue of criminal liability, and that is extremely wrong in principle and may be even unconstitutional. So that area of administrative fee is on in which, Madam President, we have serious concern about.

When we go to the issue of fit and proper requirements, Madam President, we see in Schedule 2 that among the factors to be considered is to determine whether someone is fit and proper, and the word “fairness” comes up, Madam President.

But what is fairness? How are we to assess someone as being a fair person or an unfair person? Madam President, by way of analogy many people in this country may want to accuse many others of being unfair, but we need an objective

approach to this exercise, Madam President.

11.30 a.m.

Madam President, this issue of a fit and proper person seems to be laced with subjectivity and that is an area we certainly would want to examine. Madam President, the Government has brought this piece of legislation to this Parliament and has indicated, Madam President, that it does not require a special constitutional majority. Madam President, I want to make it very clear that this conduct on the part of this Government is absolutely unacceptable, and this matter as I said, will be settled once and for all after this travesty that we are proceeding with today.

Madam President, when we look at this Bill, we see several breaches of sections 4 and 5 of our Constitution. Human rights are being infringed but there is no special constitutional majority. Madam President, you look at the legislation, you will see where there is warrantless entry onto premises which infringes the enjoyment of property without due process.

Clause 68(8) and (9), clause 67(8) and (9), Madam President. These sections, Madam President, require authorized officers or what they call “enforcement officers” to obtain warrant to enter premises. Madam President, the fact that that you have to consent to enter or to gain entry as a condition of your licence, it is self-onerous, but it does not justify a warrantless search and entry.

Madam President, the retention and mandatory disclosure of private information for dissemination to other state bodies, clause 13(1)(b), 13(2)(g), 13(2)(g), Madam President, is particularly troubling because it mandates the disclosure of any documents in the possession of licensee or associate. Madam President, even the definition of “associate” is so broad that it can encompass a range of persons that have had no expectation that they would be required to

produce any documentation requested. And, Madam President, it does not stop there. These invasions, incursions of citizen's fundamental rights and freedoms as contained in the legislation.

We have the seizure, control and impounding of gaming equipment as identified in clause 13(2)(f). Madam President, this infringes property rights and there is a seemingly wide and unfettered discretion to effect these sanctions, Madam President, without due process. Madam President, we are very concerned because there is a pattern of conduct and behaviour, Madam President, that has emerged.

You remember, Madam President, not only are we in a position today where the three-fifths majority has been removed, but it was done with the Evidence Bill, the Anti-Gang Bill, the Interception of Communication Bill, the Income Tax (Amdt.) Bill. It is a pattern of conduct on the part of this Government as they gallop towards establishing what people are now describing as a dictatorship in our country.

So, Madam President, we want to serve notice on the Government that this approach that they have taken will not be permitted to continue. This "Surattism" that the Attorney General has been going off on and the proportionate argument as I told you, Madam President, as I brought to your attention and this honourable Senate's attention, the Appeal Court recently said this is a dangerous course. But I want to warn, Madam President, the Attorney General and the Government in particular, that this Bill in its current form violates sections 4 and 5 of the Constitution. We intend to move a number of amendments to this piece of legislation including ensuring that we insert the three-fifths majority that is required. We are inserting three-fifths majority in the legislation; we are proposing

through an amendment to do so, Madam President.

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

Sen. W. Mark: So, Madam President, we want the Government to come clean on this matter. This attempt, Madam President, cannot continue. So the Government, it has brought legislation that has not had any degree of consultation as I said, Madam President, with the stakeholders. There are various provisions in this piece of legislation that infringe sections 4 and 5. There are many other provisions, Madam President, like the licensing arrangement that is too onerous and cumbersome and that will not encourage, Madam President, the kind of enterprise development that is needed.

So the Government needs to come clean and the Attorney General himself, when he speaks, I would like him to declare his interest in this matter because there are several persons we understand associated—

Madam President: Sen. Mark, I cannot allow you to say that.

Sen. W. Mark: Okay, Madam President, I will not pursue that matter.

Madam President: I would ask you to withdraw it, Sen. Mark, please.

Sen. W. Mark: I would withdraw it.

I hope, Madam President, in closing, that the Government does not through this piece of legislation, and another very critical matter of public interest, does not allow the betrayal of the century to emerge. The Government has a duty to take action to safeguard the public's interest. And this matter, Madam President, as I said, is very, very controversial, many of the provisions are very controversial, and we call on the Minister of Finance when he is wrapping up to provide this particular Senate with a clear understanding as to whether the bars would have to pay an increase in their amusement machine from \$6,000 to \$60,000, Madam

President? And whether, Madam President, the National Lotteries Control Board is in fact covered in this legislation? And if they are not covered, Madam President, why are they not covered? Since they are involved in gambling in a very serious way in Trinidad and Tobago—and gaming. So we will like the Government to indicate, Madam President, why they have left out the National Lotteries Control Board from this very important piece of legislation.

So we intend, Madam President, in closing to circulate a series of amendments to this piece of legislation to ensure that there is fairness, to ensure that there is justice. We do not believe, Madam President, that there is need for over-regulation of the industry and the provisions contained in this legislation are going to ensure the over-regulation of the industry, and that could bring about the death of the industry. And that is why we are proposing and we will be circulating a series of amendments aimed at promoting fairness, equity, and competitiveness to ensure the survival, growth and expansion of a very promising industry that can contribute positively to the future diversification of our economy, and contribute, Madam President, to revenue streams that are so critically needed at this time and in the not-too-distant future.

Madam President, I want to thank you for giving me the opportunity to raise these points as it relates to this piece of legislation at this time. Thank you very much, Madam President.

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

Sen. Anthony Vieira: Thank you, Madam President. Can Trinidad and Tobago afford to ignore the gaming and betting sector, leaving them to their own devices? Should the gaming and betting sector be regulated? And if so, why? Is the sector a gateway for organized crime? If the gaming and betting sector should be regulated,

then what should that regulation look like? Who exactly should be regulated, and who should the regulator be? Why does any of this even matter?

This Bill invites us to consider these and other questions like them. As we know, gaming and betting is big business. Whether at the racetrack, in a casino, or online, gaming and betting has evolved from games of chance on the street and gambling houses into sophisticated and highly profitable industries using consoles, electronic devices, mobile and Internet platforms, and social media. The sector rags in billions of dollars internationally and with an ever-growing gaming market.

While gaming and betting may offer innocent pleasure, entertainment and opportunity for the average player, unfortunately, they can also provoke gambling related harm including addiction and individual financial problems, and they offer rich opportunities for fraud, cheating, theft, betting scams, criminal exploitation, and the enrichment of crime.

The nature of services and products offered by the gaming and betting sector makes it particularly attractive to organized crime and criminals seeking to launder or to disguise the origins of criminally derived funds. Significant risk factors in these industries include, the prevalence of cash transactions—this is a cash rich industry—accessibility to multiple premises, and anonymity on the part of the customer.

The law already requires gaming and betting businesses to keep money laundering and terrorist financing off their businesses. Such operations are subject to the Proceeds of Crime Act and AML/CFT supervision by the Financial Intelligence Unit. But under the current system, the FIU does not have power to regulate market entry. It does not have power to conduct the fit and proper test; it does not have power to issue licences, or to specify the terms, conditions, and

restrictions under which gaming and betting establishments can operate. In fact, at present there really are not any conditions and there are inadequate measures in place.

As the hon. Minister of Finance points out, the gambling sector is governed by archaic legislation and that it is currently an amorphous, unregulated, and unsupervised industry. I agree. And that is why we need a gambling control commission, a body dedicated to regulating market entry, to the issuance and monitoring of licences, and in tandem with the FIU, to oversee the gaming and betting sector, to oversee the sector's compliance with their anti-money laundering obligations and combating the financing of terrorism. That is what this legislation is about.

This legislation will provide a licencing regime and framework for the gambling and betting sector. It will provide structure and certainty for operators and stakeholders in this sector. And that actually is a benefit to the stakeholders and operators because my research indicates that when this is unstructured the industry itself is so competitive that it could be bad for operators.

So this legislation is going to provide structure and certainty. It will enable to sector to contribute meaningfully and positively to the national economy to generate greater public revenue collection through taxation and licensing fees, and to create and provide employment.

It also aims to protect the well-being of citizens, in particular, children and problem gamblers, and it seeks to contribute to the common good, among other things, by providing money for sports development, arts and culture, and the ability to funds deserving organizations and groups.

This legislation does not take away from AML/CFT supervision where

compliance with the Proceeds of Crime Act is concerned. As clause 31 recognizes that role still remains with the FIU, but now, now there will be a dedicated body in the form of the gambling commission with responsibility for registering, licensing and regulating the sector.

Now, a look at two cases, one brought by the FIU in our local High Court, and the other relating to a case tried in the United States, but where the offence occurred in Trinidad, may shed some light on the kind of situations encountered and highlight the need for appropriate risk assessment, risk management, due diligence, and recordkeeping for casinos and gaming.

In the 2014 case of *The Financial Intelligence Unit v New World Members Club*, persons had come all the way from Malaysia to establish a private members club here in Trinidad. Unsurprisingly, there was persistent non-compliance with the Proceeds of Crime Act, and management of the club kept fubbing off the FIU time and again, among other things claiming that they could not speak English properly. It took a court Order to ensure compliance.

In *The United States of America v David Migliori* in 2013, this New Jersey resident pleaded guilty to tax evasion, specifically failing to disclose around US \$1.3 million in taxes between 2009 and 2011, from the Island Club Casino in Trinidad which he owned. The US authorities were able to bring those proceedings and to secure the conviction because of the assistance of our FIU. But no taxes were paid in Trinidad and Tobago. And as we have heard, that needs to change. When these establishments rake in millions of dollars and pay no dues, that cannot be right. So what is clear from these cases is the need for comprehensive regulation and supervision.

Under this legislation, gaming establishments will need to be licensed. They

will require approved systems of controls and procedures. They will have to keep proper records and appropriate risk assessments will need to be conducted. Owners and persons in senior management will also have to be judged as fit and proper for their positions. And I assume this means an ability to speak English. These measures are aimed towards guarding against the vulnerabilities in the sector. They will ensure more effective implementation of the applicable FATF standards, they will strengthen capacity and international information exchange, and they will assist law enforcement and gatekeepers in the sector to detect and to deter forms of money laundering.

I am confident that this legislation will contribute positively towards the peace, order and good governance of the country as envisaged under sections 5, 53 and 54 of the Constitution. [*Desk thumping*] But while I understand the concerns about the potential lack of support from the Opposition, I do wonder whether a special majority is required. Given that the Bill provides for offences and penalties, it allows for surgenies orders by authorized and enforcement officers, and it may be seen as diminishing certain rights and freedoms. For example, where it places restrictions on the use of private premises, on devices and machinery, and where it sets constraints on who may, or who may not, own or operate gambling establishments.

It may be arguable that these can impact the right to a person's enjoyment of property. So I look forward with interest to hearing the Attorney General's position on these points, but it does occasion some concern. I also have some concerns and recommendations regarding the wording of a couple clauses, in particular at clauses 5, 31, and parts of Schedule 2 which I will deal with at the committee stage.

But all in all, I think this is necessary and proportionate legislation. And in addition to the points I have made earlier, we should not lose sight of the fact that if the gaming and betting sector is not properly regulated, if we fail to comply with FATF, and if Trinidad and Tobago is seen as a haven for money laundering, the country may face serious consequences.

As the hon. Minister of Finance confirms, from an AML/CFT perspective, the situation is dire. The fact that we are the only country in the world with an unregulated gambling sector, that is really embarrassing and it is totally unacceptable. Madam President, I thank you. [*Desk thumping*]

Madam President: Attorney General.

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, it gives me great pleasure to join this debate and to put on to the record critical answers asked of my learned colleagues in the Senate thus far, and surely answers that are required to satisfy the record of this Parliament, in so far as, Sen. Mark has effectively threatened today to go to court. Yet again. I am waiting to see one matter from the Opposition actually succeed in the court in relation to threats made as to how legislation is passed. [*Desk thumping*] And by that, I mean something other than a minor tweak in an Order.

Madam President, Sen Mark has constructed a case that says this law has come like the proverbial thief in the night, there was no consultation, that there are no regulations, that five days only were permitted to hon. Members to consider this matter. Sen. Mark has said that this law requires a three-fifths majority. Sen. Mark has said this it is

violent and objectionable and will cause effectively chaos and

pandemonium. And I have characterized his argument in that way if the hon. Senator has not used those precise words. So permit me to immediately get to the point.

I propose to treat with the constitutional issues. I propose to treat with the new aspects of the law, versus what we have had in circulation for more than seven years. And I propose to treat with the proportionality of the law in the round. And permit me, Madam President, to immediately reference Cabinet Minute of June 13, 2013, when Mrs. Kamla Persad-Bissessar as Prime Minister supervised the passage that the Government take urgent steps to put a strict regulatory framework to address the gaming sector. That is June 13, 2013.

We stand here June the 18th, 2021, Madam President, merely eight years later. And in this Cabinet Minute which caused the establishment of a legal and regulatory framework for the gambling and gaming industry, chapter and verse of what the UNC Government then stood for, and which Sen Mark is now in opposition to, and violently so is set out for the Cabinet records. Madam President, what makes it even worse is that there is an entire schedule attached to that Cabinet Minute which puts out all of the very things that Sen. Mark says no to today, as positive requirements of the law.

Let us get to Cabinet Minute and Cabinet decisions made on March 26, 2015, April 02, 2015, where Mrs. Kamla Persad-Bissessar Senior Counsel, and the entire UNC Government approved the following: The Gambling (Gaming and Betting) Control Bill, 2015; the Gambling (Gaming and Betting) Control (Application for Gaming Licences) Regulations, 2015; the Gambling (Gaming and Betting) Control (Accounting and Internal Control) Regulations, 2015; the Gambling (Gaming and Betting) Control (Anti-Money Laundering Casino)

Gambling (Gaming and Betting)
Control Bill, 2021
Hon. F. Al-Rawi (cont'd)

2021.06.18

Regulations, 2015; the Gambling (Gaming and Betting) Control (Gaming Devices and Equipment) Regulations, 2015; the Gambling (Gaming and Betting) Control (Betting) Regulations, 2015; and that the Attorney General cause to be prepared the necessary legislation along the lines in these Bills and Regulations to give effect to what was agreed.

That is April of 2015. Six years later, having passed through a debate in the Senate where I sat as an Opposition Senator, without any notice in considering the gaming Bill brought by the then Mover of the Motion, Larry Howai who was Minister of Finance, Sen Vieira was there. We took objection to the gaming Bill. Sen. Helen Drayton said that it ought to go to a joint select committee. The Opposition in joining the Independent Bench asked for the committee. The Government, the Kamla Persad-Bissessar led Government, had members from the gaming and gambling fraternity in Trinidad and Tobago, I believe it was Sherry Persad who came, then as a Senator, who walked with a troop load of people to support that law.

We then went to a joint select committee. The Minister of Finance brought the exact gaming Bill from 2015 and all the regulations from 2015, not a comma was changed, not a full stop was changed, not a concept was changed. We went into a joint select committee for years, Madam President, and I sat in that joint select committee as Attorney General. International experts were brought from around the world. Those international experts supported the law in fulsome context.

12.00 noon

All of the regulations are ready and have been prepared, and were the subject of joint select committee approval. I remember Member of Parliament for

Chaguanas West, Ganga Singh, in full support of this law. And then, Madam President, we went to the House of Representatives and the Opposition, led by Mrs. Persad-Bissessar, came and defeated the Bill by refusing to give their votes for special majority legislation.

So, let us deal with this special majority removal: how it has been affected, what is the constitutionality, and why the Bill is before us, and what is different from the Bill that the Joint Select Committee approved. Number one, we have sought to treat with the law as a simple majority Bill, by treating with the property right issue, and the right to private life and family life issue—the privacy right issue—by ensuring that consent is a feature of the licence and that due process, manoeuvres and mechanisms are added into the law, and that the court is made available in the event that there is a failure of the exercise of consent. And let me traverse the constitutional underpinnings of this law and why I am absolutely confident that the law can be passed with a simple majority.

And permit me to put on record the following. The Bill is different before us now from that which is passed in the Joint Select Committee only in a few areas: One, we have updated the anti-money laundering, countering terrorism of financing and proliferation financing issues. Two, we have added into that matrix, that AML/CFT/PF matrix: concepts of beneficial ownership; concepts of access by law enforcement and the Police Complaints Authority to confidential information contained in the register, which the Commission holds by allowing for the use of witness statements after a court orders that information to happen to not be a breach of confidence, by putting in the supervisory authority in the form of the Financial Intelligence Unit to go to work as a feature of the law and not sit outside the law, where the FIU does not have compliance, even though the law says so.

And what we have done is to ensure that vulnerable people, et cetera, are all matched up.

So number one, the constitutionality is underpinned by the fact that what we do is we tie it to the reasons in a society, such as Trinidad and Tobago, why a law such as this is reasonable and proportionate. That is a consideration which section 13 of the Constitution sets up but it is not required because the simple point is not every section 4 and section 5 right is an absolute right. They are conditional rights, which can survive without a three-fifths majority purpose support on the basis that the highest court in Trinidad and Tobago's lineup of courts has said—and I quote Baroness Hale, in particular, in aid of this argument—that there is no absolute right, if the law extends within the parameters of what known intrusion looks like; if there is due process in the provision; if there is proportionality attached to a legitimate aim, going only so far as you require, and that aim not being interfered with in a way such as to cause jeopardy, that that will stand without three-fifths rights.

So, let us get to the guts of how this is set up. This law is set up specifically by creating two categories of officers to act: an authorized officer and an enforcement officer. An authorized officer and enforcement officer both work along with the aims and objectives and the functions of the commission to be found in section 4—clause 4 and clause 13 of the legislation. When we looked to the objects and functions, and we see that the objects and functions include stopping criminality; protecting the vulnerable; causing compliance with the law, therefore bettering the economic out-turn and product that you can have by the industry; diversification, et cetera, but specifically, where these authorized officers and enforcement officers only have locus, only have position, if you are saying I

want to be a person in the gambling industry, I want to comply because if I do not have a licence under section 29—section 27 onward, I will be breaching the law. So therefore, if you want to be in the gaming and gambling industry, you must apply for a licence.

A conditionality of your licence upfront, your notice, if you want this licence, you have to agree that there will be consent for law enforcement officers to visit your premises during normal working hours or when you are open. There will be consent for authorized officers to enter your premises and not only does consent vitiate any concern about access because quite simply, if you do not want to give consent, do not apply for the licence. You know upfront what the terms and conditions are. But the law is set up very specifically at section 69—at clause 69. Where clause 69, notwithstanding the fact that you have given consent, for entry, for possession, et cetera, a magistrate is invoked, the jurisdiction of the court. The court's jurisdiction is applied for, the consent falls apart and if you look to clause 69 of the Bill, in particular, Madam President—let me put it on the record:

“A Magistrate may, on application of an enforcement officer, issue a warrant authorising the enforcement officer to enter upon licensed premises if the Magistrate is satisfied that—

there are reasonable grounds for suspecting that an offence has been or is being committed;

...reasonable grounds for suspecting that evidence of the commission of an offence may be found on the premises;

the enforcement officer has requested and has been refused entry;

the admission to the premises is likely to be refused unless a warrant is produced;

that the purpose of entry may be frustrated or seriously prejudice unless the enforcement officer can secure immediate entry; or there is no person on the premises capable of granting...”

Stick a pin. Go back clauses 67 and 68, authorized officers and enforcement officers. And you will note, you can only be subjected to an investigation or being called upon to answer a question, if you agree—not as a condition of your licence—but you must agree to answering questions. So no tripping of the rights against self-incrimination. You must be provided in the circumstances of the grant of a licence, the renewal of a licence, the revocation of a licence, the variation of a licence. You must be provided with notice. That notice tells you upfront that you are going to be subjected to inspection.

So, the law must be read as a whole and when you read this law as a whole, Madam President, you will notice that far from being an excessive intrusion or using the gimmickry, as Sen. Mark may allude to it—not his words—but alluding to that way of the gimmickry of consent upfront in applying for the licences. What this contemplates is that, ultimately, you will be subjected to a magistrate’s permission on warrant for entry if there is a refusal. This did not come out of the blue. This came out of the Financial Intelligence Unit Act, specifically.

Now, let us stick a pin for a moment. The global construct behind us is as follows. Trinidad and Tobago is the only country, so says the IMF, to have an unregulated gaming industry; the only country in the world that the IMF is aware of. Secondly, under recommendations of the Financial Action Task Force, in particular, when we looked to the immediate outcomes and recommendations, you will note Recommendations 28 and 29—if I remember them—immediate

outcomes three and four, Trinidad and Tobago has been deemed to be non-compliant in its private member club arrangement.

If you look to the Financial Intelligence Unit and you look at what they say the situation is in Trinidad and Tobago, there is a very frightening statistic. Permit me to pull it. When we look at the statistical information coming out of the Board of Inland Revenue and the material that they have put forward for us—if I could only find it here—effectively, the compliance factors are woeful. So the international world, the Financial Action Task Force, has said to us, you are non-compliant. We have come out of some of the jeopardy but we are under a fifth round mutual evaluation to come. It is something that we have to comply with.

Secondly, the Global Forum and the European Commission have also flagged this issue: beneficial ownership, et cetera. Permit me to also say that the issue of administrative fines, which I will come to in a moment, is something that we are deficient in. And therefore, the requirement for administrative fines in this law, which we have included, which is new and different from the old law, is underpinned by the Recommendation 35 of the Financial Action Task Force.

But, Madam President, when you look to the Board of Inland Revenue, you heard Sen. Mark—and, Madam President, may I ask what time is full time?

Madam President: You finish at 12.23.

Hon. F. Al-Rawi: Thank you, Madam President, when you look at Sen. Mark telling us thousands of people are going to be affected—number one, 7,000 employees; 20,000 people touching and concerning those employees are affected right now because they are bankless. They do not have access to bank accounts because they are unbankable, because the gaming industry is forced to operate under a charade—an unfortunate charade. And to liberate the industry and to allow

the most vulnerable single mothers and persons—Sen. Mark needs to stop opposing the law and allow them to become bankable, so that they can obtain mortgages, they can look after their children, they do not have to leave the casino with a wad of cash in their pocket. But when you get to Sen. Mark's statement that there are 10,000 machines, and thousands of workers, here is what the BIR tells us. For 2017, there were 253 registered clubs; for 2018, 251; 2019, 246; 2020, 247; 2021, 248. If the BIR, recognizes only 248 clubs and Sen. Mark tells there are thousands in the industry and in structures, then one has to wonder if Sen. Mark is unaware of the fact that he is underwriting the reasons why you ought to support this law. Because, Madam President, when we looked at the number of people who paid out of those numbers, paid their taxes, 69 people paid out of the 253, 47 paid out of the 251, 36 paid out of the 246, 18 paid out of the 247.

Now, taxation is not a concept that is alien to our existence. The revenue of this country is born on the back of taxation, we all pay it. The PAYE system is such that you do not even see the money you have earned. It is directly deposited into the Consolidated Fund. And therefore, asking very profitable, multimillion-dollar, if not billion-dollar companies to enter into this arrangement, is an important point. Permit me to say this, now. I have served as an attorney-at-law for many gaming entities in Trinidad and Tobago. I have—I have had and continue to have and have declared on every occasion, to the best of my knowledge, that there are people who are married into my wife's family, people who I know who have gaming connections. If you accept Sen. Mark's invitation in some curious way presented, why would I stand in particular—

Sen. Mark: [*Inaudible*]

Madam President: Sen. Mark, what point of order, please?

Sen. Mark: No, I adhere at your ruling. You had ruled when I raised the matter—

Madam President: Well, that is why I am asking you—

Sen. Mark:—that I should withdraw. So I am saying you had ruled on this matter. So is the Attorney General going to continue?

Madam President: Attorney General, Sen. Mark had withdrawn the statements that he had made.

Hon. F. Al-Rawi: Thank you. Well, I am making a declaration, so I can accept that. I am saying, again, that there is nothing odious and if you look at this point, Madam President, if you were to accept some radical, insane version of the truth, where you try to make it up as you go yet again, as someone hypothetically may, and make an allegation about me, why would I be instilling into the law, as the drafter of the law—because I drafted this law on the back of the UNC Bill—the most stringent and transparent mechanisms, if even only for people I have in the past represented or may or may not be related to? It is just insane, Madam President, to make such a submission, if someone were to make it.

Madam President, I come back to the point of underpinning the constitutionality and demonstrating that the statistical evidence shows that we are in significant problems and permit me now to turn to another element of relevance, to constitutionality. The criminality in this jurisdiction, in the gaming industry, is one of serious concern because it is a cash rich aspect of the law.

Sen. Mark: Madam President, Standing Order 42(9).

Madam President: Continue, Attorney General.

Hon. F. Al-Rawi: Thank you, Madam President. Yes, Madam President, I end at 20—how much?

Madam President: You end at 12.23.

Hon. F. Al-Rawi: Thank you, Madam President. I wish I had much more time—

Madam President: So about seven more minutes.

Hon. F. Al-Rawi: So, Madam President, permit me to say that, it is critical for us to underpin the aspect of criminality. One of the legitimate aims set out in clause 4 and clause 13, demonstrate why the functionality is required inside of there. What we look at, Madam President, very importantly, in underpinning constitutionality, I want to bore through to the point of clause 38. Clause 38, specifically, excludes personal licences, from the issue of consent or entry by—under the enforcement officers or authorized officers. So, personal licences, which is a requirement for everybody who is working in the industry, there is no intrusion into the personal affairs of people at all. None at all. The establishment so requesting a licences, agreeing upfront and being subjected to the provisions of the warranting provisions, à la FIU law, that is what is materially different inside of this construct.

I would like to note, Madam President, again, the consent factors, as I had mentioned in clauses 43, 44, 45 and 46, and the power of the FIU to revoke for AML/CFT supervision issues. What happened is, if you looked to the number of people registered at the FIU, Madam President, out of the 230-something entities that the BIR listed, where only tens of them were actually paying. Here is what was, in terms of the people listed: 2017, 19 people listed—

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

Hon. F. Al-Rawi: Thank you—2018, 12; the next year, three; the year after, zero. So Sen. Mark says thousands, he has given them, 7,000, 10,000, 20,000. BIR recognizes 240, tens of them paying taxes, and FIU says, for the last year 2019/2020, three people registered at the FIU. It is why one of the legitimate aims in this Bill is to ensure that one of the conditionalities of your licence include, that

you must comply with the FIU, and that the FIU is to be informed at every step, and that the FIU is to ensure that AML/CFT/PF supervision is a feature of this law because of the issue of criminality.

On the proportionality side, we have the consent, authorized versus enforcement officers, enforcement officers are police officers, so clothed under the SRP legislation and we preserve it there. They are backed by a service commission and therefore, meet the Heinz muster of constitutionality because they are not under the control of the commission. They answer to the Service Commissions/Police Commissioner under section 123, section 123(a) of the Constitution. So we have addressed the Heinz constitutionality within that concern of the Privy Council.

Very importantly, Madam President, let me touch quickly the administrative fines. The administrative fines are being paid to the Commission, yes, to the Consolidated Fund. The caveat here is that pursuant to clause 85, you must have the DPP's consent. And administrative fines, within the meaning of that phraseology as we have implied it into our law now: Securities Act, FIU legislation, Proceeds of Crime Act—you will recall we made amendments recently to those to meet regulation 35 of the FATF. Here we have put an extra level of consent, that is the DPP. Why? Any issue of criminal prosecution must pass through the Office of the DPP. Why? Because of section 90 of the Constitution, where the DPP's oversight is not only there but now we want his active oversight. Not passive oversight to bring a charge, to nolle pros a charge or to intervene in [*Inaudible*] and the due process provisions, the right of appeal at every step, in relation to a licence, a matter, a variation, an amendment of licences, they all go to the High Court. Court of Appeal, Privy Council, due process is preserved.

When we get to the fact of the confidentiality, the confidentiality is critical because confidentiality is preserved in very strict sense. The only exceptions to confidentiality are to law enforcement within the structure that we have put it in the Income Tax Act, the Proceeds of Crime Act, the Central Bank Act, the Securities Act, the Financial Institutions Act, as we now have in the body of the Laws of Trinidad and Tobago.

Madam President, I end by saying I completely reject Sen. Mark's submissions. There have been eight years of consultation on this law. It is high time that we protect our country and salvage our reputation. And I look forward to the submissions of hon. Senators, as I will stay for this entire debate and participate at committee stage. Thank you, Madam President. [*Desk thumping*]

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

Sen. Renuka Rambhajan: Deeply obliged, Madam President, my apologies. Members of this honourable Chamber, when we look at this piece of legislation that is being proposed and the arguments raised thus far, it appears as if we are being asked to take a chance on the Bill, to take a bet that it will operate and operate well. And that chance that we are being asked to give this Bill may put us in the hole, if you pardon the gambling puns. And why do I say that? First and foremost, when you study the Bill, is that is massive confusion in some of these sections and that is because we have looked at the framework to regulate the gaming industry, in a fashion where we are taking pieces of different Acts, we are taking different policy considerations and trying to create a framework to govern the entirety of an industry that is constantly growing.

The hon. Minister of Finance said when he presented the Bill, that they will come back to deal with betting online. And that is an example of how this

legislation has to grow, if the purpose of the legislation, as stated in the Bill, is to be met and that is to stop criminality. Now, I have two main points I would want to make for consideration by the Members opposite me.

First and foremost, let us look at the appointment of the Commission and the appointment of the members of that Commission. Now, when we look at the legislation, the appointment of the members of the Commission is extremely open to political manipulation—the potential for political manipulation. And that is because the Commission members can be appointed, not by the President, but by Minister and we have difficulty with that.

We also have difficulty with the fact that there is no requirement for the Commissioner or Commissioners to declare their conflicts interest under oath, and that is something I think the hon. Attorney General and the Minister of Finance ought to consider when looking at potential amendments. Why, if we have the powers of a commission being given to specific individuals, we are not asking those specific individuals to hold themselves to the same standard in the Bill that you are putting before the House? In other words, Madam President, if the Commissioner has a financial interest, a pecuniary interest, a fiduciary interest, that ought to be declared. Because if he or she is to monitor and police this industry, he must be beyond reproach, and one way to ensure that is to have him or her declare their interest under oath.

The hon. Attorney General, in his contribution, said he is declaring his interest. There was a declaration that he made that he has acted on behalf of members in the gaming industry and I am grateful for that declaration. And the same freeing feeling his declaration brought in to this House, I would ask that the

members of the Commission feel that same freeing feeling and declare their interest under oath.

Now, what is ironic, though, is when we look at the Bill, where the Commissioners do not have to declare a conflict of interest under oath, anybody who is applying for a licence has to. So let us look at that for a minute. It means that the Commissioners, who have to judge whether or not to give you a licence, they do not have to declare their interest. But the person who is applying for the licence has to declare their interest. There is confusion there and it is my respectful view, that there must be consistency across the board. If we are talking about transparency and accountability, that transparency and accountability must match not only the licence—the persons applying for the licences and those who are operating these gaming machines, but it must also apply to those who are policing them, the Commissioners themselves.

It is ironic that persons who seek to have a licence must fulfil what is called in the Bill, a fit and proper requirement. So if I am applying for a licence, I must fulfil a fit and proper requirement but the Commissioners do not. There is confusion there. And we need to be very clear that if we are setting up a policing body to monitor the gaming industry, that that body must maintain its integrity, transparency and accountability across the board. Otherwise people would say—as people say sometimes—who policing the police? In this instance, who monitoring the Commission members? Something to consider.

12.30 p.m.

Now, why is the appointment of the Commission the first point I raise? It is because the Commission is the one who has the power under this Bill. The Commission is the one who has authorized officers and enforcement officers

taking instruction from them. So, we are giving power to people to police, but in giving them the power to police, we have not done it properly, and I will beg your indulgence to explain why.

When we look at the Bill when it was piloted, a few moments ago by the hon. Minister of Finance, there was a study of different sections by the hon. Minister, and he spoke of the enforcement officer and the authorized officer, as did the hon. Attorney General. And Minister Imbert said that the authorized officer is there to assess compliance, assess if there is compliance with the licence and assess if an offence is committed. So, their purpose is to gather information on non-compliance. And then I beg the question, and then what? They pass it on to the enforcement officer? But the hon. Minister said the authorized officer and the enforcement officer essentially have the same powers. So why are we granting powers to two different entities to fulfil essentially the same purpose? And I know many across from me will say, well, no, no, that is a misinterpretation, but I would go through the sections and show you how you duplicate the powers and, as a consequence, the enforcement is onerous. Excuse me.

Now, when we look at the role of the authorized officer and the enforcement officer, do we have the potential to create a group of persons who are being given powers they do not legally have, to do things that can open the State to action for liability? For example, if an enforcement officer is to go and seek entry into a place and is denied entry, does he have the right because he is, according to this Bill, a police officer, the right of entry under the Police Service Act? Have we considered this? Because there is a section that speaks to the issuing of a warrant which I will come to. So, when you properly study the Bill, when we put aside the politics and you look at the clauses themselves, they are confusing, and there is the potential

for abuse, not only by the Commission, but by the authorized officer and the enforcement officer as well.

And what happens when a citizen suffers abuse at the hand of the State? They sue and then taxpayers have to pay money, because persons thought they had the authority to do things that they did not. So, let us prevent that from happening, by amending the sections so that there are clear demarcated powers for the authorized officer and the enforcement officer. And, I may be so bold as to say, we might not need the distinction between the two at all. [*Cellphone rings*] So, we need to be careful.

Madam President: So, Sen. Rambhajan, if you could just give me a second.

Sen. R. Rambhajan: I apologize.

Madam President: Whoever had that phone on, could you just leave the Chamber? You could return in five minutes. Continue Sen. Rambhajan.

Sen. R. Rambhajan: I am grateful, Madam President. We have to be careful that we do not create, I guess, “tappo-type” police who is responding and taking instruction from a group of persons, who have been appointed in circumstances that may be questionable. And when I say in circumstances that may be questionable, I mean that someone comes and sits on the Commission and has an agenda. That person will be able to manipulate and, as a consequence, citizens will suffer.

Now, we need to understand that sometimes in our attempt to regulate and monitor that we lose sight of the persons who might be affected by our intent. We have large scale members club in Trinidad and Tobago. We all know this. But we also have the small man. And when I say the “small man”, the smaller casinos that operate, perhaps in the rural areas where they have three or four roulette machines,

what they called the one-arm bandit or the slot machines and so on, they will be equally subject to this Bill as the larger institutions. The difference is, they do not have the capital and resources to fight when an enforcement officer or an authorized officer abuse their authority.

We have seen in the courts of the Republic where big business owners are able to tie up issues, tie up matters in legal issues, where the small man who does not have the ability to pay for these expensive and good lawyers, who would say, "Well, I would just plead guilty." And before you know it, they have lost their bread and butter. Have we considered this when we looked at this Bill? Have we considered that there is the potential for the small man to suffer? Have we considered that in a time when we have had a lockdown for 15 months, these people who have barely kept their industry alive, when they are asked to pay and conform to this Act, they may simply not have the resources to do so and we have people on the unemployment line again?

The hon. Attorney General spoke about BIR and the number of registered persons who are subject to taxation. But let us be real, Members. A lot of these small casino owners may hire shell-staff, skeleton staff: One person to mix drinks, one person to serve and one person to clean. Why are we not considering, if we want to monitor the gaming industry, categorizing these casino gambling institutions? Perhaps, we could measure by profit per year, number of employees, number of machines and tax according to that categorization. That may be fairer to the smaller man in the industry.

Now, the hon. Minister of Finance, when he piloted the Bill, he wanted to make it clear that this Bill does not apply to the bar owners because they are governed by the Liquor Licences Act, and that machines use for amusement would

not fall under this piece of legislation. Well, if that is the case, why do we not make it clear? Why do we not define what is a machine used for amusement purposes in the definition section? If we do not want to do that, then we could put an actual clause that says, “This Act shall only apply to persons operating gambling machines and not machines for amusement”, because there is a categorization that would assist. [*Desk thumping*] So something to consider, hon. Attorney General and Minister of Finance.

Now, I want to come back to the role of the enforcement officer and the authorized officer. Now, reference was made to the Liquor Licences Act, and I pulled the Liquor Licences Act, and in the Liquor Licences Act, there is a definition of an authorized officer. The authorized officer, however, in the Liquor Licences Act, does not conform with the definition of this Bill. That, therefore, means that their role and function in monitoring, though given the same title, is different. So, perhaps, we would want to ensure consistency between the Liquor Licences Act and this gaming Bill.

Something of note as well, in the Liquor Licences Act—and we all know that the Liquor Licences Act is monitored and policed by Customs and Excise officers, who are officers given powers, similar to the police, so that they can enter, seize, search and prosecute. If we are creating a monitoring team of persons, let us do it the same way, so that when someone comes to a gaming establishment, and according to the Act they must identify themselves by providing authorization, that the bar owner, sorry, the casino owner knows that this person is suitably authorized and this is what their powers are and this is what they can do. Let us make it clear. Let us not police in the greyness. Let it be black and white, so that everybody knows what their obligation under the Bill would be and, more than that, we would

know what the powers of these officers are.

Now, section 3 in the Liquor Licences Act is a section I would want to suggest be inserted in the Bill. Section 3 says:

“For the purpose of carrying out the provisions of this Act”—that is the Liquor Licences Act—“all officers shall have the same powers, authorities and privileges as are given by law to constables.”

By one section in the Liquor Licences Act, we have made it clear that customs and excise duty and police officers have the powers of a constable. If we are saying enforcement officers here are police officers, a simple insertion of that clause will clarify that, and it will actually remove the need for the authorized officer.

From the debate this morning, it appears to me as if the role of the authorized officer is to be more administrative, while the enforcement officer is supposed to be more policing, if I can use that term. But there is going to be confusion, because when we look at the role of the authorized officer and the role of the enforcement officer, there is but one distinction. So, we need to be careful that we are creating this monitoring requirement and this licensing requirement under a Bill, and it is onerous to the common man—it is onerous to the businessman, it is onerous to the small businessman, it is onerous to the larger businessmen as well.

Now, if we have SRPs as enforcement officers, and they are taking orders from the Commission, who are they liable to under the State Liability Act? Because the Commissioner of Police would be the one who would more than likely be served a pre-action protocol letter, not the Commission, even though the Commission is the one who would have given the authority to so do. So, there is confusion there. And notice that reference to the DPP comes at the point of charge,

not in investigation. So the potential for me to conduct several investigations into a businessman who is carrying on a gaming establishment without laying charge is extremely high. And how can that be abused?

It means that if I sit as a commissioner and I am friends with somebody who has a gaming establishment, and he has a competitor that he wants out of business, as the Commissioner I can facilitate my enforcement officers going there, because according to the Act, he has to agree to the right of entry to get his licence, and then I can continually go there, ask for documents, make copies, constantly, and do what? Not frustrate him out of business? So, the potential for abuse is there. We need to tighten some of the clauses in the Bill.

Now, if you have entry, because the person has agreed to on the licence, is it then that we are asking persons to agree to give up a constitutional right? Because that is what it sounds like to me. And I believe the hon. Attorney General said it in his contribution just before me. He says consent does not vitiate your rights. If you do not agree for them to enter, then do not apply. That cannot be the standard that we are applying in this honourable House. It cannot be, if you cannot conform, find another “wuk”, because that is what it sounds like. If you cannot do what we tell you to do, you cannot operate. Is that the right and proper message we want to send to the young people who want to start a business and think that gaming might be profitable? Can we legally agree not to enforce a right we may have under the Constitution? I am not sure we can. And that alone may open this Bill to challenge. And I know that there is a lot of talk about challenge in the courts and challenge in the courts, and all I want to say is this. If you get it right the first time, we would not have to challenge it in court. Simple. The fact that we have a cause of action in the court says you did not get it right or we think you did not get it right. So do not

fault us for showing you where you may have fallen. That is the purpose of the Opposition, respectfully.

So let me take you through some of the clauses, I think need some tightening when it comes to the enforcement and authorized officers. And clause 67(7):

“An authorised officer”—may subject to enter—“any licensed premises in order to carry out any activity...”

So, all of the learning that has been provided by the courts, on the use of reasonable suspicion to swear on information to get a warrant goes out to door. All of your rights under the criminal law goes out the door.

Now, the learned Attorney General says, but if it is you deny entry, I can get a warrant. So, let us trace it. Initially to get the licence, I must agree to let you enter. Then I have placed a clause in the Act that says if I refuse to let you enter then a warrant can be issued to you for you to enter. Who is entering? The enforcement officer. Who is the enforcement officer? A police officer. Does a police officer have the right of entry where there is reasonable suspicion that an offence is being committed or for the safety of persons involved? A question that the hon. Attorney General may want to look for the answer. Because it means that you are creating a right or a duty for a magistrate to grant a warrant, but you are not saying under what circumstance that warrant will be required. Simply saying that the enforcement officer has requested and has been refused entry, you could get a warrant. But how can he refuse entry when his licence says he has granted you the right of entry? Duplicitous and confusing, with great respect. It needs to be clearer.

Then, a warrant would be issued in clause 69(c), but then when we go to clause 70, which immediately follows the clause I just referred to, which deals with

the warrant, clause 70 says:

“Within forty-eight hours of entry onto licensed premises, the authorised officer shall produce...”

Hold on, hold on, hold on.

Madam President: Sen. Rambhajan.

Sen. R. Rambhajan: Yes, please.

Madam President: You have five more minutes.

Sen. R. Rambhajan: I am grateful, Madam President. So, hold on here a minute. Clause 69 talks about the enforcement officer getting a warrant, but section 70 speaks to the duties of the authorized officer when the warrant is granted. So, even in the drafting there is confusion between the role of the authorized officer and the enforcement officer, and it is something that needs to be clarified. When we look at clause 68(1)(d):

“An enforcement officer may undertake activities for the purpose of assessing—

(d) whether facilities for gambling, or any other activity required to be licensed under this Act, are being provided in any place;”

Let me put it in simple layman’s terms. If an enforcement officer appointed by the Commission is of the view that somebody is conducting gambling activity, they have the right of entry to enter into that place to see whether or not gambling is taking place. So that means any premises. I want you all to focus on 68(1)(d), because what it says is, in an attempt to enforce this Bill, enforcement officers can enter into any place. And I have just spoken about the fact that may not be in accordance with the laws and principles of fairness and equity.

When we look at this Bill, yes, it is needed, yes it is much overdue, but we

cannot, in an attempt to police, create the potential for abuse. We cannot take a chance with people's constitutional rights. We cannot bet on the taxpayers' money and the payment of lump sums for damages. We cannot roll the dice that we will get it right. What we need to do, is to make sure if we are policing an industry like this where the potential for criminality is high, that the standard we have placed in the legislation is legally sound and correct.

So, once there are amendments, I can say I will support it, but those amendments must be clear, it must be concise and it must be in keeping with the overarching standards of the principles of law and justice. Madam President, I thank you for your time. [*Desk thumping*]

Sen. Deeroop Teemal: Thank you, Madam President, for the opportunity to contribute to the Bill before us. Madam President, the fact that this Bill is before us, clearly indicates that as a nation we have determined that the benefits of gambling far outweigh the consequential social and individual costs. Madam President, by the objects of this Bill stated in clause 4, and in the piloting of this Bill, I would have expected to hear or liked to get a bit more information in terms of, you know, what percentage of GDP that gambling contributes to the economy? And by regulation of this industry, what percentage of GDP we are aiming for? And by regulating the sector, the projected aim or the projected gain in employment, as this is clearly stated as one of objects of this Bill. Again, similarly with regard to collection of taxes, and by regulating this particular industry, how much would we expect to collect, maybe if not short-term projections, but at least medium-term projections?

Madam President, in the definitions on page 10 of the Bill, reference is made to a "vulnerable person" and it refers to:

“...a person who exhibits an addiction to gambling as evidenced by...”

And it goes on to state the evidence in terms of addiction. But, Madam President, in terms of the readings from other jurisdictions, a lot of emphasis is being placed, not necessarily in terms of vulnerable persons, per se, but in a more overarching definition in terms of what is referred to as “problem gambling”, for problem gambling is more wide-reaching in that it is any form of the gambling problem that disrupts your life.

If you are one, pre-occupied with gambling; two, spending more and more time and money on gambling; three, chasing losses and accumulating losses due to gambling despite serious consequences in one’s life; and four, the urge to gambling despite harmful negative consequences or a desire to stop. Therefore, it just not only a question of addiction but development of behavioural patterns that negatively impact on family, personal health and job which leads to bankruptcy, crime, domestic abuse and suicide.

Madam President, I would like to go to clause 6 of the proposed Bill that deals with the tenure and the constitution of the Board to be appointed. And, in my ignorance, Madam President, I am seeking clarification as to why such an apparent convoluted or roundabout or lengthy journey in terms of appointing the first board. For what is outlined here is that:

- “(a) the Chairman, a Deputy Chairman and two other members”—would be—“appointed for a term of four years;
- (b) three members...three years; and
- (c) two members...for a term of two years,”—this is the first appointment and their appointments shall not expire on the same date. And I ask, what is the reasoning behind this approach? For in clause 6(2), subsequent to the appointment

of the first board, the appointment is based on four-year appointment and not:

“...consecutively or not, eight years in aggregate in respect of each member.”

So, I am just seeking clarification on what are the advantages. You know, what is the reason for appointing the first board in such a manner?

Madam President, clause 5(4) states that:

“The members of the Board shall be appointed on such terms and conditions...”

And it shall be appointed by the President, and yet still in clause 6(4), we see that:

“A member may resign by notice in writing to the Minister.”

I am just asking if the board, the members of the board are appointed, the board is appointed by the President, why it is that the resignation has to be in writing to the Minister and not the President? The same thinking goes to clause 6(6), where it states that:

“A member may be removed from office”—a member of the board, that is—“by the Minister...”

And the question is asked, if the Board is appointed by the President, why should removal from office be by the Minister and not by the President?

Madam President, I go to clause 18, sorry, clause 13(c) where it states on the “Functions and powers of the Commission” and subclause (c):

“to seek to address, through the Rehabilitation Fund and the Development Fund, the harmful and negative effects of gambling...”

As one of the functions and powers of the Commission. And I ask the question, in order to address “the harmful and negative effects of gambling”, why in this Bill it is only through the Rehabilitation Fund and Development Fund and not through

other measures?

For in clause 64(2), it also goes on to say that:

“(2) The Rehabilitation Fund is established to assist non-governmental organisations and other groups working with vulnerable persons and their families...”

Again, the signal that comes to me is that: Why only to assist non-governmental organizations and groups?

1.00 p.m.

Should not the Rehabilitation Fund be used directly by the Commission to position the Commission as the primary entity responsible for bringing about research experience, research expertise, and a knowledge base in the areas of, one, problem gambling with regard to families and communities; two, the overall impact of gambling on the economy and the work environment; three, measures to minimize the negative impact of online gambling on problem gamblers, and development of technological methodologies to limit easy accessibility to online gaming, online poker and casinos; four, other areas of relevant research and the building of a knowledge base on all possible impacts of gambling?

Madam President, the Commission may well have to get directly engaged in the establishment, management and administration of gambling rehabilitation centres, and as a result, this Rehabilitation Fund should not just be limited to NGOs and similar-type groups, which is why with regard to clause 64 section (4), where it states that:

“The Commission shall, on or before 30th September of every year, deposit in the Rehabilitation Fund and the Development Fund amounts equivalent to two and one half per cent in case of the Rehabilitation Fund and five per

cent...”—in the case of the Development Fund.

I am proposing that based on what I have outlined here for the extended role of the Commission, particularly the extended and direct role of the Commission particularly with regard to rehabilitation, that the Rehabilitation Fund be increased from 2.5 per cent to 5 per cent.

[Mr. Vice-President *in the Chair*]

Mr. Vice-President, clause 65 section (1), calls on the Minister to appoint a committee to be known as the “Rehabilitation and Development Funds Committee”, and based on what I have outlined for an increased role of the Commission and a direct role of the Commission in rehabilitation, I am also suggesting that this committee be a standing committee of the Commission. So that there is continuity in the work of this committee, irrespective of the members forming the committee and the change in members.

Mr. Vice-President, I also note in this particular clause 65, nowhere in the respective sections the appointment of the Chairman or a Deputy Chairman is addressed. Maybe I am suggesting that it has to be specifically addressed in terms of for this committee how the Chairman and the Deputy Chairman would be appointed.

Mr. Vice-President, research into other jurisdictions indicate that the prevalence of problem gambling is related to the degree of accessibility of gambling and particular gaming machines, and to address this, I would like to identify two measures. One, the granting of premises license, due consideration needs to be addressed in the regulations, particularly in the regulations with respect to the following factors: Proximity to schools, children’s homes and heavily populated areas with high intensity of young persons, and also proximity to the

factor of vulnerable communities.

Mr. Vice-President, the Minister of Finance in piloting the Bill alluded to a distinction between amusement machines and gaming machines and, yes, this is addressed in clause 56, where:

“The Commission shall have the power to designate any machine to be an amusement machine or a gaming machine.”

But considering the objective, a very clear objective to keep our vulnerable persons, particularly our young persons, away from gambling, this distinction between amusement machines and gaming machines should be rigorously addressed in the regulations, to ensure that the gaming machines are not incidentally placed in vulnerable communities and villages through bars and shops.

Mr. Vice-President, in clause 32(1), it states that:

“Subject to subsection (2), the following persons may apply for a licence under this Act:”

The first qualification under (a) states that:

“a person who is eighteen years of age and older;”

Mr. Vice-President, I would like to humbly suggest that we raise that 18 years to 21 years. Now, I know 18 years is the age of consent and you are considered an adult in Trinidad and Tobago, but when we look at the range of licences outlined in this Bill, and when we look at the level of maturity and the level of responsibility that is necessary to really obtain these licences, I am proposing that we raise the age of 18 years for obtaining of these licences to 21 years.

Mr. Vice-President, in clause 32(8), in terms of the granting of licences, there is provision being made for objections to granting of licences. This clause 32(8) allows for objections in writing to the Commission, and the category of

persons that can object, such as a resident, school principal, et cetera. It is listed out there. But, Mr. Vice-President, in terms of dealing with the objections and the procedure for dealing with the objections under this particular clause 32(8), I do not see a clear pathway in the Bill for dealing with objections that are made to the Commission. So what is the clear procedure? I think the Bill needs to address it in a clear and definitive manner on the Commission receiving an objection to persons applying for a licence.

Now clause 34 speaks about the investigations, but these investigations are geared up for those who are applying for the licences and the procedures for the granting of the licences, but it does not deal with investigations into objections. Maybe in clause 34(4), where it states that:

“The Commission shall make rules for the conduct of the hearing of any application referred to in subsection (2)(d).”

We could add to that clause, “Objections raised under section 34(a)”, so that some form of investigation is allowed for with regard to objections.

Mr. Vice-President, I would also like to refer to clause 34 under investigations, subclause (3), where it states that:

“The Commissioner of Police shall cause such enquiries to be made as he deems necessary and shall provide a copy of the report on his enquiries to the Commission.”

Mr. Vice-President, to me this clause, it sticks out, because it just appears within the investigations and I am not seeing any trigger for the engagement of the Commissioner of Police anywhere in this clause, or anywhere else in the Bill. What is the trigger for the engagement of the Commissioner of Police, as it is stated in clause 34(3)?

Mr. Vice-President, I would like to go to clause 76 that deals with remote facilities or remote gambling. In piloting the Bill, the Minister of Finance did say that this is indeed a complex matter, and I agree with him. It is indeed very complex, and as technology advances it becomes more and more complex. But it was also indicated that this Bill has been six years in the making, and how I look at it is that the opportunity to regulate remote gambling or interactive gambling or Internet gambling, as we would refer to it, it is being missed by not being addressed in this Bill. Because, there is a proliferation of Internet gambling and interactive gambling, and the opportunity to generate increased revenue from this source is being missed by not using the opportunity to regulate it with this Bill. I know the Attorney General is an advocate of “just start” legislation, and he may respond and say, yes, we have to start and this legislation would come later on. But I think that the legislation to regulate Internet gambling or interactive gambling should be looked at expeditiously, because if we are to achieve the objects of this Bill, particularly with regard to money laundering and counterterrorism, it is imperative that legislation to regulate Internet gambling is brought expeditiously.

Mr. Vice-President, in concluding, I would just like to share some thoughts in terms of the personal licence that is required in this Bill under clause 41(2). The Bill really to me goes into a very detailed list of requirements that is required for a personal licence, for certain persons engaged in the industry such as the Director, key employees. On a lighter note, it may seem that it is much easier to get into heaven than to obtain a job in the gambling industry, based on the onerous list of requirements that is listed here, particularly since a stated object of the Bill is to provide employment.

I think Sen. Mark did mention the whole aspect of restorative justice, and the

target group in terms of particularly increased employment in this industry. I am just thinking aloud that the quite onerous requirements that are placed here, by having to obtain a personal licence, would work against the very objective, that is, of increasing employment through this particular industry.

With these few words, I thank you very much, Mr. Vice-President.

Mr. Vice-President: Minister of Public Information and Digital Transformation.

The Minister of Public Information and Digital Transformation (Sen. The Hon. Allyson West): Mr. Vice-President, I thank you for giving me the opportunity to contribute to this debate. I will start by responding to a comment made by Sen. Teemal, where he said that the fact that we have brought this legislation to the Parliament means that we have accepted that there are more benefits to having a gambling industry in Trinidad and Tobago than there are negatives. I would like to comment on that because, for the benefit of Sen. Teemal and the wider viewing public, there is a reason why this is not a debate on whether we should allow or encourage gambling in Trinidad and Tobago. That debate took place at an earlier time during, if memory serves, the tenure of Prime Minister Manning, when discussions were held on whether gambling should “be allowed” in Trinidad and Tobago, and if so what effect it would have on the society and the economy, and if we were to “allow” it, then should we confine it to an island off of Trinidad, where the operators and their clientele would carry on their “nefarious” activity away from “decent people”. That debate did happen. It was a raging debate in, I think, the period 2005 to 2010. That was a conversation from a time when gambling as we knew it then was by and large confined to a “wappie” game behind closed doors, away from the police and “decent” people that I mentioned earlier, and it only came out in the public around Carnival time when things became

looser, and there was less fear of retribution. But while we pondered the pros and cons of whether we should encourage gambling as a new industry in Trinidad and Tobago, and hid our heads like the proverbial ostrich in the sand, a gambling industry has boomed all around us. We have big establishments called “private members’ clubs”—and I will deal more with that later—alongside little mom and pop establishments, the corner bar and, as I understand it, even places like hair salons are involved in one way or another in the gambling and gaming industry, from having one or two devices to massive infrastructures with multiple gambling choices.

So, Mr. Vice-President, we are certainly not here to debate whether or not we should “allow” gambling in Trinidad and Tobago, nor is this debate an acceptance of the fact that gambling is good for Trinidad and Tobago. That horse has well and truly bolted. The barn door is wide open and the horse has gone. All we can do now is try to rein in the monster that has been created while we have been sleeping and talking. And I do not use that word as an indication that I fall on the side of the opponents of the sector—I am being neutral in my contribution this afternoon—but merely in the recognition of the fact that in the absence of regulation we have no clear idea of what is happening in that sector. But there is evidence that it is out of control, and at least parts of it are engaging in some of the nefarious activity with which gambling is associated. So regulation of the industry is now imperative, and that is why we are here today.

Proponents and opponents of the industry have long debated the pros and cons of the activity. On the positive side, they have advocated that it creates jobs, that it can stimulate the economy and create the opportunity for increased demand, that it generates taxes. On the negative side, the opponents have said it is often

associated with criminal activity, such as money laundering, fraud, terrorism financing, theft. The sheer volume of the cash circulating in the industry is conducive to all those types of activities. Those are the negatives that have to be stamped out. There is no question about that.

But even on the positive side, what we have in the local industry, and make no mistake it is an industry, are owners who have difficulty opening bank accounts, because the vast majority of banks in Trinidad and Tobago took a decision, in or around 2015, to not facilitate the activities of that unregulated activity. They took that decision because they wanted to avoid the exposure of inadvertently facilitating things like money laundering and terrorism financing, tax evasion and the like.

So, I have been told, for example, Mr. Vice-President, that there have been attempts made by persons operating in this industry to settle large tax liabilities by transferring cash to the Board of Inland Revenue, because they cannot get access to cheques. We have another potentially positive, but not in fact positive, issue arising out of the unregulation of this industry: Employees who are not part of the formal economy. In that, they have no NIB registration, no Board of Inland Revenue registration and, as a result of that, they have difficulty accessing relief that is available normally to employees. Maternity, sick leave, retirement benefits, injury benefits, that employees as a general rule can access through the NIB, are not available to these unregulated employees, who are part of an unregulated industry and, as a result, many of whom are not registered with the Board of Inland Revenue and NIB.

We also saw, during the course of 2020 in particular, the difficulty faced by employees of this nature in accessing the Salary Relief Grant, the grant provided

by the State to employees who had lost earnings as a result of the lockdown of the economy, as a consequence of COVID. We had to create a parallel system in the Ministry of Social Development and Family Services, to seek to identify these people and provide relief. Because they were not part of the regulated sector, because they were not part of the formal economy, it was difficult to identify who they were, and getting relief to them was more difficult. So these are some of the negatives of having the industry in the form that it is, where there is no regulation.

Another significant problem which we have identified is the creation of gambling addicts, for example, where at the moment there is no measure in place to treat with it. It is a growing societal problem as I understand it, and it leads to all sorts of consequential problems, like persons spending all of their income on gambling and therefore not being able to take care of their families. As a result, you have the potential for domestic abuse and other such roll-on impacts. We also have a severe underreporting of the taxes that are supposed to be one of the benefits of getting involved in this industry.

The Attorney General would have mentioned in his contribution earlier, the number of gambling establishments that are registered with the Board of Inland Revenue, and given you an indication of how much tax has been collected over the last few years from the industry. The Ministry of Finance has been doing some research in the area and has ascertained that because of the number of gambling tables, and because of the activity in the industry, the amount of tax that should be collected from the industry at minimum should be half a billion dollars. But when you look at the actual statistics received from the Board of Inland Revenue, look at what we have, in fact, collected from that industry.

In 2017, total taxes collected by the Board of Inland Revenue, 56million,

and I am talking as against a conservative estimate of what collection should be, of half a billion dollars. So in 2017, \$56 million was collected; in 2018, \$82 million; in 2019, \$70 million. As against, as I indicated, half a billion dollars which in my view is a very conservative estimate.

Now, Sen. Teemal as well indicated, where are the statistics on the industry, do we know how much tax should be collected? Okay, one of the problems with the fact that we have an unregulated industry is that we have no or little concrete facts and statistics. So studies have been done to get an estimate of what the industry contributes GDP, for example, and it has been estimated that it contributes up to \$15 billion—it is a \$15 billion industry, roughly speaking.

Doing a back of the envelope computation, I estimate that in that industry, being very, very generous, 25 per cent of the income generated should represent the profits of the industry. Because when I look at the nature of what they do, while they may have a heavy capital investment initially in terms of the tables and so on, the day-to-day expenditure should not be significant in terms of the income that is received. So I have conservatively estimated profits of 25 per cent. When I apply the 30 per cent rate of corporation tax to that, I come up with estimated taxes potentially of \$1.12 billion. Compare that to the Ministry of Finance's conservative estimate of half a billion and, more importantly, compare it to the actual collections which maxed out at \$82 million versus \$1.2 billion in 2018.

So what we have is an industry which from all appearances is flourishing, earning lots of money. You see the big signs. You see the big buildings. You see the indication of success, but not making a reasonable, proportionate contribution to the coffers of Trinidad and Tobago, while it enjoys all the benefits provided by the State to its citizens. Is that fair?

Sen. Rambhajan indicated that we were not been fair in how we approached the taxation of these players in the industry, and she suggested that we should categorize the different players by income, for example, by number of employees, so that we can more reasonably tax them. What I would say in response to Sen. Rambhajan is a couple of things. One, under the current system, we have no information on which we can rely to apply that categorization, because we do not know how much money the organizations make. We do not know how much money because they do not declare income to the Board of Inland Revenue. We do not know how many employees a lot of them employ, because many of them are not registered with either the NIB or the IRD. So, in the absence of regulation, it is difficult to do a categorization. That is my first response to Sen. Rambhajan.

Secondly, I would say to Sen. Rambhajan that in effect there is a categorization based on the approach used, because persons involved in this industry are taxed, by and large, on the number of tables that they have in operation. Therefore, if you are a small mom and pop shop, presumably you have one or two machines, and you would be taxed on that. Whereas if you are huge gambling establishment, you would have several and, therefore, you will pay more tax on that. So, I think there is a rationale and a reasonableness in the current approach to taxation of the industry. But what I would say is, based on my back of the envelope calculation, the industry, even if they all comply with the legislation, which of course is far from the case at the moment, the industry may not be making its fair contribution to the tax net, and the only way we can properly assess that and determine whether the approach to taxation is appropriate, is with the information that the provisions of the current Bill will allow us to gather.

1.30 p.m.

A couple of other things I would mention on the taxation situation as currently applies before I go into how the legislation seeks to deal with those issues are, the issue of the private members' clubs.

Now, as I said, we do not have as much information as we should on how the industry is performing and why it is structured the way it is. But as a general rule, private members' clubs are structured in that way so that they can allege that they are not engaged in profit, in income generating activity, in profit-earning activity, because what they do is that their members contribute to the operations and are provided with services much in the same way that a condominium management company has the condominium owners contributing to the expenses. So there is not a desire or an approach to earn profits but just to share expenses and therefore, they should not be regarded as taxable entities and therefore they do not pay tax.

I am not sure that that is the right approach that should be taken, but as I said, we do not have the information readily available to make an assessment. A move towards this will give us the right—the information that we need and we can make a proper assessment of whether the current system is adequate—it may well be—or whether we should reassess how we tax these establishments.

A case that really was jarring in terms of how it made Trinidad and Tobago look on the international scene was mentioned by Sen. Vieira. This is the case of the person who committed tax evasion in Trinidad and Tobago, was not prosecuted in Trinidad and Tobago, was prosecuted in the States. It reminded me a lot of the airport case where we had a crime committed in Trinidad and Tobago, so far nobody in Trinidad and Tobago has paid for that crime but people have been prosecuted, served time and so on in the States for the very crime. So it makes Trinidad and Tobago look as though it is not about law enforcement and proper law

and order which is something that we need to deal with. So we need to put things in place to ensure that when tax evasion occurs in Trinidad and Tobago, we can address that issue in Trinidad and Tobago and not have to rely on a foreign entity, foreign jurisdiction to ensure that that person pays for the crime that he has committed on our shores.

So, Mr. Vice-President, all of these issues which I have mentioned, most of them focused on tax because my other colleagues will focus on the other bits of the legislation, we have sought to address in the Bill that is before us.

So, in clause 5 of the Bill, one of the provisions—clause 4 of the Bill, sorry—one of the provisions which is found at paragraph (f) says that an object of the legislation is to:

“provide for the collection of taxes...”

And throughout the Bill there have been different measures that have been put in place to promote that object.

So in clause 14(1)(b) the Commission has the power to provide information to other regulatory and government agencies including the Board of Inland Revenue which will then have the ability to determine whether it is collecting the correct amount of taxes, the Financial Intelligence Unit, the Customs and Excise Division with the role of which in this industry is to ensure that it collects the correct amount of taxes on items imported by members, by persons engaged in the gaming and gambling industry.

What is happening now I understand is that tables that are being brought in for gambling purposes are brought in broken down so that Customs, and they are not declared as gambling tables when they are brought in, so Customs applies a rate of duty that is lower than what should apply.

With the provision to Customs going forward of correct information based on what the Commission is able to collect, Customs can then go back to the person who imported the table, under its powers of audit and review, and impose the correct amount of duties that ought to have been collected at the time of importation. So that is a way that we are seeking to improve the ability to collect the correct amount of taxes.

The Commission also has the power to inspect equipment. Now, how taxes are avoided in terms of equipment is that the gambling equipment can be easily manipulated to reflect activity or to not reflect activity that has happened. So that can lead to an understatement of income and an understatement of taxes. So giving the Commission the authority to inspect the equipment to ensure that they are not being tampered with allows us to collect the right, the correct information which will allow us in turn to apply the correct taxes.

The Commission has the right to require verification of all income and other matters relevant to the business. That too is needed to give the tax authority the right information, one, to determine whether the current tax structure is the appropriate one that we should continue to use, and two, whether the taxes being declared are the correct taxes.

The Commission has the right to designate a device, a gambling or betting machine which, again, as I indicated earlier, assists the Comptroller of Customs and Excise in the execution of his or her duties.

There is the authority to electronically monitor and audit machines and devices. That is also something that is currently missing that is also needed because we need to ensure that we know the level of activity going on, so that not only can we protect the coffers by collecting the correct taxes but we can protect the people

who are gambling and maybe being taken advantage of in terms of their correct reflections of their winnings and losses.

Clause 53 of the Bill or clause 52 of the Bill, Mr. Vice-President, lists a system of controls and accounting procedures that are not currently present. It requires the auditing of the financial accounts of the gambling establishment by an ICAT registered auditor. It requires the owner of the gambling establishment to keep books and records for seven years. It establishes procedures or it allows the commission to establish procedures for:

“...the collection, disbursement, storage, recording and encashment of gambling instruments;”

—which is another important way, not only to protect the revenue that should be coming to the State, but also to protect the person involved in the gambling activity, and it allows the Commission to inspect gaming machines.

Now, Mr. Vice-President, clause 66 lists the—and/or 65 lists the annual taxes that are to be paid on gaming machines and slot machines that range from \$12,000 in slot machines a year, to \$75,000 on Sip Sam tables, that is the range. And based on that, those taxes, as I indicated earlier, the Board of Inland Revenue estimates that the taxes that should be collected from the industry should be, at least, \$500 million, and at the moment it is significantly below that. So that the powers that are being given to the Commission to allow them to collate information, and the power that is given to the Commission to allow them to share information with other state regulators us will allow us to narrow that gap of tax evasion and tax avoidance and allow the State to properly collect the taxes due from these establishments.

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

Sen. The Hon. A. West: Thank you, Mr. Vice-President. A couple of other objects

that I will briefly mention, Mr. Vice-President, an important aspect of the Bill that we do not currently have in place is, the focus on protecting minors and vulnerable persons. Gambling establishments, there is a concern by people who promote the benefits of the gambling sector, that gambling establishment can negatively impact the lives of both these groups, minors and vulnerable people, especially in terms of the vulnerable people, people who have a propensity for addiction either to gambling or to substances. The gambling world is a world that easily induces the emergence of these kinds of addictions, and at the moment we have people who are exposed and are not being protected and taken care of. So clauses 80 to 82 provide protection in terms of the minors and creates criminal offences in respect of permitting or inviting or allowing a minor to gamble, permitting them in the gambling establishment, permitting them to be employed in gambling activities. All of those are criminal offences.

In respect of protection of the vulnerable, what the legislation has done is created two funds that, one, will allow for the treatment of people who are suffering from these addictions, and two, will allow for more positive outlets for these people. So that while the gambling industry is something that we have accepted is now part of our lives, we are seeking to protect the people who are most suffering from the existence of this activity. And so the Commission is required to contribute 2½ to 5 per cent in each of the funds to allow for the funding of these activities. And, Mr. Vice-President, that is a very important part of the regulation which we need almost immediately.

So, Mr. Vice-President, I will leave the other issues to be dealt with by my colleagues as I indicated. My focus tends to be on tax first and foremost and I think that the gambling industry has too long gotten away with not paying its fair share.

This legislation will seek to address that and I commend the legislation in its form to the Members of the committee.

One last thing I would like to say, Mr. Vice-President, is that we had very robust committee discussions the Joint Select Committee. I want to congratulate the chairman Minister Imbert and the vice-chairman the Attorney General, they did an excellent job. The Bill is a very reasonable Bill that took everything into consideration, and I thank you, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: Sen. Mohan. [*Desk thumping*]

Sen. Teron Mohan: Thank you, Mr. Vice-President. Pleasant afternoon, hon. Members of the Senate. Firstly, allow me to express my sincerest gratitude for being here today as invited by the Opposition. And my core reason for my appearance here also is that out of fear, fear that the vague qualities and attributes of this Bill and its impact on what it could mean for the bar sector. As the Minister of Finance indicated earlier, it—he eloquently educated that it does not affect the bar sector in any sort of way however, under definitions of a:

“‘gaming lounge’ which means a means premises licensed under the Liquor Licences Act, in respect of which a licence is issued by the Commission, pursuant to this Act, to accommodate a maximum of twenty amusement machines;”

That inclusion in itself is one of the conflicts that were brought to our attention in this Bill.

Mr. Vice-President, I am a fourth generation bar operator. Additionally, I sit on the board, the Trinidad & Tobago Coalition of Bars & Restaurants and it is with that fear and with that concern is why we felt the need or why I felt the need to make my peace here today, and not as a disgruntled former president, as the

Minister of Finance so eloquently illustrated however, I will chalk that up as a hearty welcome. This fear is being felt by 3,000-plus bar owners who, on the heels of the pandemic, can possibly lose a significant revenue earner which they very much depend on should we come back to any form or any semblance of normalcy post pandemic.

As I refer to as it is in the Bill where they define “gaming lounge” as such, it does not indicate as to the inclusion or the specification of what amusement games really are. One item I would like to bring to your attention would be that of the electronic roulette table and the fact that we are not able to see clearly where does that align itself between the difference between the private members’ clubs and this gaming Bill, as well as its interjection into the Liquor Licences Act for bars as an amusement game.

By the definition of “amusement” according of the Act we also have a limitation on the pay outs allowed on these machines of cap of over \$5,000 at any given time. At this point in time, we are paying the equal annual tax amount as a regular casino or members’ club, that being of \$120,000 per annum per machine. These are some of the details that we would like the hon. Minister of Finance and the Attorney General to give some clarity on going forward.

As my colleagues before me have more or less chalked up a lot of the details that I had already prepared so for not to be redundant, my contribution here would be short. Presently, as I said, the Liquor Licenses Act allows for taxation of electronic roulette devices in bars and restaurants, as well as the multi-player linked gaming machines. These devices have existed in these environments for some 10 years and as such we do not want to see that given this present piece of legislation that it shifts from its clarification and commands an even higher cost

attached to us to maintain. If that is to be the effect at any point in time, the earning power of these machines will certainly affect the industry very harshly in a very direct fashion. Bars rely heavily on the introduction of gaming in addition to the sale of food and beverage and as such we would not be able to employ, cover our basic operating costs were it not for the intervention of these devices. And I stress on these qualify for the main fact that the Bill in its present existence does not specify its position in relation to bars and how we are to be affected by these adjustments for the gaming commission and all of its other consequences.

Mr. Vice-President, because most of the points affecting the industry have been covered before, I would just simply like to highlight that we are not opposed to a gaming regulation board. We do know that sometime in the future this light will be shed on the bar industry and the amusement games as they are, we are just simply calling for the need for more effective consultation when it comes to drafting these policies, the need for clemency as particularly during this 16 months of pandemic here what we have been affected with and what we are trying to recover from. Thank you very much for your time. [*Desk thumping*]

Mr. Vice-President: Hon. Senators, before I call on the next speaker, permit me to congratulate Sen. Mohan on his maiden contribution at this time. [*Desk thumping*]
Sen. Richards.

Sen. Paul Richards: Thank you, Mr. Vice-President, for acknowledging me and allowing me to make a contribution to this the:

“An Act to provide for the regulation and control of gaming and betting and matters related thereto”

And allow me to join my colleagues in congratulating Sen. Mohan on his maiden contribution. Congratulations, Sir.

Mr. Vice-President, the gambling—this Bill is to me one of the most important Bills to come before the Parliament. It is quite voluminous and I share Sen. Mark's sentiments that it would have been more productive for hon. Members to be given a little more time to peruse this Bill [*Desk thumping*] so that it can—so that Members can do it justice. And I say that before I sat on this committee in the Eleventh and part of the Twelfth Parliaments, I think just over five years. And even with that firsthand view of the Bill through many of its stages, it is extremely complex and difficult to understand and I do not know—well, let me speak for myself, that I would have been able to do a disaggregation and a proper looking at this, an interrogation of this effectively in five days.

So I think that should have been something that should have come to hon. Senators a lot earlier so that they could have gone through the 84 clauses and look at the provisions with a keener eye because it is extremely complex. I never knew that this industry was as complex and had the potential to be as insidious as this. And I think because of the importance of it, it should have been given a little more time to Members, as I said before. It is—but even with that said I will say that—I remember Sen. Mark indicating in his contribution that there was little or no time for consultation. And because I sat on that committee, I will tell you that there was extensive consultation with stakeholders across the board. And while it is impossible to accommodate all stakeholders, there were even international experts who presented before us to look at what is best practice around the world.

Let me state, Mr. Vice-President, in my opinion, an unregulated and gaming industry is extremely dangerous and has far-reaching implications for national security, social integration and integrity, mental health and economic sustainability. There are so many present loopholes and opportunities for

corruption, money laundering, terrorist financing, gang funding, human trafficking, illegal arms and ammunitions trading, et cetera, in an unregulated industry like this.

This Bill to me, while it tackles quite a lot of what is presented to the country or what faces the country, a decision was made, if I can put it like that, not to go as far we could have gone in terms of the online betting situation because and quite frankly, it would have meant that this Bill would not have reached this Parliament for another three or so years because that aspect of it is such an intricate and far-reaching in today's globally connected Internet world that that is a whole different consideration. So it does not to me tackle that aspect of it as effectively as it could but, as I said before, that is quite an expansive exploration in and of itself. And because the present iteration of the gaming and betting industry is technologically driven and Internet driven, that requires a different kind of expertise which I hope can and will be explored in the not too distant future.

As many have indicated before in their contributions, this particular Bill has taken so long to come to the Parliament, and while it has taken this long the country has been left at the behest of some pretty dark characters locally, regionally and internationally who really exploit embryonic oversight and regulation of this type of this industry. I want to start by giving an overview, and I know I have only 20 minutes so I will go through this pretty quickly.

“Casinos generate”—an—“enormous revenue streams...”

And I am reading from an article on the “Vulnerabilities of the Casinos and Gaming Sector March 2009” a FATF report.

“Casinos generate enormous revenue streams for providers and for governments”—if regulated—“through taxation and licensing fees. The size

of the global casino business was estimated”—in 2009—“at...USD 70 billion in revenue....”

To date it is almost doubled that.

“Macau China”—at the time was—“...the fastest growing casino jurisdiction, and recorded more than USD 10 billion in gaming revenue in 2007”—alone.

So we see the size of this industry. It is massive. If unregulated, think of what it can do in terms of possibly undermining your legitimate economy and the damage it can do in that regard.

Mr. Vice-President, there are so many different loopholes in an unregulated industry; parallel money betting, buying and winning tickets and lotteries and cashing them in for much larger funds to launder money; buying winning jack pots and gambling clubs and winning casino cheques; frequent and unverifiable winning claims and cashings; frequent deposits of winning gambling cheques followed by immediate withdrawals of large funds; multiple chip cash-outs on the same day; customers claiming gaming machine credit payouts with no jack pot; customers claiming high levels of gaming machine payouts; purchasing and cashing out casino chips with no verifiable or mechanisms in place for accountability with absolutely no gaming activity.

And these are the documented breaches in Australia and Sydney Australia where AUD \$1.7 million was traced to these kinds of illegal activities; frequent cash-out transactions without correspondences or buying transactions. And as I said before, the intricacies of this sector are so far-reaching that we really have to make some progress in this country at regulating the industry at some level.

In Thailand over 100,000 people are arrested each year for illegal gambling

offences; 100,000 people every year in Thailand. Is that not shocking? It is estimated that two to 300 illegal gambling houses in Bangkok alone, and the annual turnover for illegal gambling houses in Bangkok is estimates at US 4 to 17billion dollars. So you see the scope for malfeasance in terms of an unregulated industry and these are larger countries than Trinidad and Tobago in many regards.

The hon. Minister of Finance in his piloting of the Bill indicated that in 2007 there were 20 private members' clubs and 147 or 148—depending on the data you are using—recreation clubs. And members' clubs in Trinidad and Tobago as we know have evolved as a mechanism for circumventing the existing laws in the country. So while there may not have been a rigid regulatory framework in place, members' clubs arose and offered some of these services to be able to circumvent the authorities, as it were.

The Minister indicated that in 2018, 18 per cent or 47 of the 246 were compliant in terms of paying taxes. Mr. Vice-President, 2019, 15 per cent, so it is going down, of 246 were compliant. In 2020, 7 per cent. I think it was the first quarter of 2020 he reported on which meant that the large number of establishments were not contributing the taxes that they should to the State.

2.00 p.m.

I want to change now gears and go to, to me one of the most sinister side effects of an unregulated gambling industry in the country, and anecdotally I could say without the data to support it, looking at the lines at Play Whe and Lotto booths, we may already have a serious gambling problem in Trinidad and Tobago that is not being remediated in any serious way. And I want quote, Mr. Vice-President, from a Charleston Law Review article called “Dangerous games: The Psychological Case for Regulating Gambling 2020”. The reasons for regulations

include, and I quote:

“There are several motivations behind regulating gaming activities. The first is the desire to control the harm of this perceived social evil.”

—if not regulated in an effective way.

“In this way, gambling regulation can be described as classic social control legislation, its purpose is to control or limit a perceived social evil from harming the public by either outright banning its legality or funneling the activity into state approved outlets.”

—under regulation.

“The rationale goes as follows: through the state offering its own legal outlets”—or through licensed outlets—“whose proceeds are taxable and whose operations contribute to the tax base”—of the country—“and the state directly.”

The establishment of the state sponsored ones, in some instances, are comparable in Trinidad and Tobago where we have the entity called NLCB. One of the big issues in terms of the damage it can cause is the issue of what is described in the article as the illusion of control, when people slip into the veneer of becoming addicts to gambling. And the damages it causes is not only to themselves but to their families and by some extension in some instances to the communities.

Fortunately, in this Bill it is contemplated that clause 64 is to provide a Rehabilitation Fund to provide intervention services and to fund and sponsor NGOs that provide intervention services for addictions or gambling addictions, and for persons who suffer the effects of gambling addiction. It is also envisioned to assist in areas of sport, social and community work, arts and culture. The article

goes on to say that:

“Clinical studies have shown that the addictive potential of sports betting”—or gambling—“is higher than that of playing the lottery. An important factor for addiction in games is the illusion of control. If a player has the impression that he”—or she—“can influence the game in some way, he becomes more engaged in the game and therefore is more likely to place”—more—“bets”—higher and higher each time around—“even when the perceived probability of winning is kept at a constant level.”

In other words, the person starts to get a high from the gambling and this fuels the possible addiction.

“The participant’s perception of control in a gambling activity, where such control is illusory, has a high correlation to pathological gambling behavior.”—and addictions—“This is especially so when the player has had relative success at the beginning of the run of the games.”

I think it is extremely important for us to know the possible side effects that may already be happening in Trinidad and Tobago in an unregulated, or a largely unregulated environment. When persons become addicted and become pathological at gambling:

“A survey of almost 400 Gamblers Anonymous members reported that more than half of these admitted to engaging in theft to finance their gambling addiction. As well, homelessness”—as there was a high correlation of homelessness or losing one’s home—“is correlated with gambling”—addiction or—“problems.

Suicide is commonly contemplated among pathological gamblers as a means of escape.”

—when it just becomes too much to handle after a while.

And I know we probably all know somebody who has almost lost everything in their lives because of an addiction to gambling that may be quite evident in Trinidad and Tobago that we are not dealing with effectively. And I think part of what is important in providing oversight and regulation as is in some of the provisions of this Bill, is to deal with that very, very serious problem in Trinidad and Tobago, of what I believe anecdotally is gambling addiction.

“In 2012, 70 % of all adult Americans were said to take part in some form of gambling.”

What, 70 per cent.

“In that year”—2012—“\$900 billion was wagered in legal betting, producing \$80.5 billion in gross gambling revenues (GBR). In the same time period”—it was \$14 trillion—oh—“\$14 billion”—sorry—“Thus, revenues from legal gambling constituted 0.57% of American GDP.”

So, if this is regulated we can institute protections for persons, and the State can benefit tremendously in a regulated, a properly regulated environment that promotes sustainability along the way.

Mr. Vice-President, the American Gaming Association put out an article also that is titled “Skilled at Deception”, and the subtitle was “How unregulated gaming machines endanger consumers, the general public and dilute investments in local economies”. And I quote:

“Once the province solely of Las Vegas and Atlantic City, casino gaming is now a legal, regulated industry in 44 states, generating over \$261 billion in economic impact and over \$41 billion in direct tax revenues and supporting more than 1.8 million jobs...”

So if regulated properly, this industry can also provide for a sustainable sector in society. It goes on to say a regulated industry also protects exploitation.

And as I think Sen. Mark indicated in his contribution, probably over anecdotally 80 per cent of the employees in this sector in Trinidad and Tobago, in the casinos, et cetera, are female. And in an unregulated environment they are very often exploited by their employers, and that can only be remedied by proper regulation. So, while I may not be happy with all the provisions in the Bill, I think it is extremely important to note that this sector needs to be regulated in Trinidad and Tobago much more effectively than it is being done now.

Mr. Vice-President, the article goes on to say that:

“The robust licensing and operational standards for all gaming companies”—and sectors—“are essential to the industry’s success. These standards promote confidence among consumers, ensuring that when they visit our properties”—and the establishments—“they will be treated fairly.”

One of the things that really surprised me and shocked me in sitting through these committees, is the—how technically advanced this industry is? For example, the software that goes into these machines can be so easily manipulated to scheme and trick consumers into thinking they are winning, when it is really duping them. And, in an unregulated environment there are no controls over that. No one is inspecting these machines on a monthly or a random basis, so it is open season for corruption and malfeasance from operators who may tend to go that way. Do we really want that in Trinidad and Tobago? And I really do not think so. I think we have to be very careful in terms of allowing an industry like this to continue without any effective regulation. Mr. Vice-President, can you tell me how much more time I have?

Mr. Vice-President: 2.20.

Sen. P. Richards: 2.20.

Mr. Vice-President: Yes, it is 2.08.

Sen. P. Richards: Right. So, I have about seven to 10 minutes left. So, one of the things I want us to consider is, in the article by the FATF Report 2009, speaking to the vulnerabilities of casinos and the gaming sector, there are reports on various areas around the globe. And, of course, the Caribbean is featured prominently, the Caribbean and Central America. And the article goes on to say in section 51, that the Caribbean has more than 120 casinos on 15 islands.

You see FATF report, casinos operating in the Bahamas four, Belize two, Costa Rica 35, Dominican Republic 44, Jamaica 10, Panama 14, Suriname 9. But the level of regulation and AML controls is not clear in the region. Trinidad and Tobago according to this article has no legal casinos, but have 72 registered private members club that operate like casinos, but are not supervised by the Government. That is frightening to me. Open Source Material reports that:

Panama has 14 full sale casinos and three additional licences being granted, and 29 gaming machine halls; combined with non-casino gaming revenues, Panama has the second largest gaming market in Latin America only behind Argentina. AML—that is Anti-Money Laundering—and CFT Controls appear to be lacking in Costa Rica, El Salvador, Nicaragua, despite several attempts of their respective governments to better control and regulate these industries. The Dominican Republic does not extend AML controls to this sector.

So you see, Mr. Vice-President, it speaks to what is necessary to me, in the case of Trinidad and Tobago, in terms of effectively regulating this industry. You

know, I hear Sen. Mark in terms of some of the concerns he has articulated. I actually agree with some of them, because I think that because of the far-reaching effects of many of the provisions in this very, very voluminous Bill and the impact on the sector, it is very important for us to get it right. I mean, we would not get it totally right, but there must be some sort of attempt, at least, to move toward a more regulated environment in Trinidad and Tobago. And I really do not think we have the time to wait anymore. It has been long in coming.

As a matter of fact, what shocked me in one of the consultations is the brazen—how should I say it in a parliamentary language? It is the brazen arrogance that some of the persons who operate expect Trinidad and Tobago to continue allowing an unregulated environment so that they can continue to rake in the money no matter what the effects are on Trinidad and Tobago with the people, and certainly the Trinidad and Tobago economy. And I think that is an untenable situation to continue, given what may be at stake and the possibility for the continued laundering of money. The unregulated gaming industry and betting industry around the world are notorious for being havens for terrorist financing and moving money from one jurisdiction to the other, illegal trade in arms and ammunition, which fuels violence in that country. And, if we do not start to see the strong correlation of relationship between an unregulated industry and the types of crimes and arms and ammunition we are seeing imported into Trinidad and Tobago, then we are living in a fool's paradise. And it is important that we start to see those very strong connections and take steps to remedy them, if we are to protect our country in a holistic manner.

So, Mr. Vice-President, I would like to say that after spending almost six years on this in the committee, I think the committee put in a lot of work. I will go

on record as saying I do not think everything has been covered. I think that online aspect, as I said before, is something that needs to be contemplated and dealt with very, very quickly. Because when you think about it, you could act—I have not even spoken about the issue of bitcoin and the fact that you can go on your phone, including minors, and have betting apps and gambling apps which pay in bitcoins, which can be moved around in that online environment without any regulation in Trinidad and Tobago. And I know there is a reference in the Bill to the prohibition of remote betting, but that does not mean that is enough regulation to stop it from happening. Because as it stands in Trinidad and Tobago, we know that online betting and online gambling is taking place. And I do not think, as I said before, I understand why it could not be contemplated in terms of a holistic look at it, the industry, but certainly it is something that needs to be in managed and handled expeditiously in Trinidad and Tobago. Because we may be finding ourselves putting law in place to deal with an industry in a physical sense that has largely gone online, and then what we will be doing in that case is spinning top in mud and being 10 years behind the game that has primarily gone online according to the data presently available in most circles.

So I think—I understand why it was not more comprehensively contemplated in this Bill, but I think it has to be something that is managed and dealt with expeditiously in Trinidad and Tobago, because that is where the world now lives. The world live online, and gambling and gaming has certainly gone online, and the kinds of money that is being funds and that is being transferred between gamers on your television, on your phone, through the PS 4, through the Xbox is astounding. And it is so easy when you look at the data to realize how much of the underworld is using the loopholes in jurisdictions like Trinidad and

Tobago that are not effectively regulated and do not have the proper oversight mechanisms as is contemplated by the gambling commission in this Bill to really deal with those issues effectively.

[MADAM PRESIDENT *in the Chair*]

So with those few words, Madam President, I thank you. [*Desk thumping*]

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

Thank you, Madam President, and I am pleased to join in the debate on the Gambling (Gaming and Betting) Control Bill, 2021. And, Madam President, when I think about gambling, gaming and betting as it is in this country, I see the good, the bad and the ugly.

Unfortunately, I see more of the negative than the positive as it is. And this exercise today is about legitimization of the industry, and therefore this Bill and this new gaming commission will really set the industry back on track to be more in an advantageous manner, and of course I expect that we would be seeing more of the positive and less of the negative that is associated with the industry. So that what we have brought here—and Sen. Mark, you said it was not clean and so on—is in fact a clean Bill that has been thoroughly sanitized, and it certainly will be found to be attractive in developing the industry as it is, and in cleaning up the current state of it. And I think in the long run it will do well for the growth of the industry, because it will come whether you like it or not, and of course it will be attractive to further local direct investment and foreign direct investment.

And, Madam President, I think everyone, well not everyone, but certainly the AG addressed the history of the Bill, but you would be surprised to know that it dated back to 1999 with the gambling and betting amendment No. 2 Bill, and that lapsed on account of the 2000 election, and then, of course, there was the Gambling and

Sen. The Hon. P. Gopee-Scoon (cont'd)

Betting (Amdt.) Bill, 2001, and that lapsed on account of the 2002 election. And, of course, history brings us back to today, and the hon. AG would have spoken to the folly and the political hypocrisy of why this was not dealt with before. Someone mentioned, one of my colleagues before me mentioned about the consultation. I think it is Sen. Mohan, that not enough consultation was done. And I want to say, I want to refute that and to say that this Bill went through rigorous consultation with stakeholders and consultants as well. And this Bill is the product of hard work from every Member on all sides who contributed to the Joint Select Committee from 2017 to 2019. And during that first year I can tell you, I was a former member of the committee, many consultations were had and a lot of the comments and the concerns were discussed, and the definitions reviewed, and the list of stakeholders was extensive from various associations, to private members club, and individuals with interest in the sector, and I think there may have been some members of society who were just looking after the well-being of citizens.

So it really has been a collaborative effort. Thorough consultation, I can say. Collaborative effort all the way around, but the point about it is, we all have come to the point, the sector has to be regulated. So there have been a few changes. This Bill no longer requires a three-fifths majority here, but the point is, what we have brought here today will in fact legitimize the gambling sector and the gaming sector, and so on, and it will allow us to move forward.

According to the final report of the Joint Select on the Gambling (Gaming and Betting) Control Bill, 2016, the industry employed something like 7,000 persons, and I am aware it is way more than that. And I am understanding something like 200 private members clubs in operation and of course all of the amusement gaming machines which are not really attached to this Bill but rather

to the Liquor Licences Act. What I am saying in effect is that many people are involved in this industry and this is why we must lend our attention to fixing the industry, and the statistics really lend to the magnitude of the sector. And as I am saying, it is in fact even larger than one would think.

But the truth is, that you really do not have any real-time data, and that is because there is no oversight body, and because the industry is highly unregulated. And that is what is bad about it. So, the sector is governed by the Gambling and Betting Act of 1963. And yes, you heard me correctly, 1963. That is 58 years ago. I would have been a little child, and this country would have been just into Independence. And in this Act, a person found guilty of running or operating a common gaming house not registered under the Act was fined a mere \$1,500 or imprisonment of 12 months. And while this \$1,500 would have been severe then, it really is not suitable in today's world, and it would therefore not be considered as a deterrent for some of the offences that are in there. So this is what is all bad about the industry. And as the law stands, of course, casinos are considered illegal entities, and we all know that they are established as membership clubs.

So, the entire scenario has changed drastically, and, of course, with the introduction of technology and so on, the sector has grown exponentially, and there are countries and states that are paying attention and regulating, and why should we not fix this very antiquated legislation where we are unable to govern the systems and the growth of the industry. And as I said, there has been a proliferation of, in particular, of the online gaming industry in the world today, and I know we are not addressing that, but it is something that we cannot remove entirely from our mind, and I am sure that there will be a way to address this in the future. It is not being dealt with today. But this whole global gambling market

really is expected to reach a value of around \$565 billion, and it is growing at a rate of close to 6 per cent. That is where we are with it. So, it is part of this very vibrant entertainment economy, and I will say that if the industry in Trinidad is properly defined and packaged, there will be benefits, there could be benefits, and I could see increased employment and increased revenue, and certainly increased tourism coming as a result, but it has to start with fixing where we are today and setting us on a stable footing. And I talked about this Internet gambling and so on, and other Members before me talked about it, and it was so interesting in my research to know that in New York, Governor Cuomo will actually approve a limited operator government bid online sports betting model. And this is going to be passed actually as part of the State's fiscal year budget in 2022. And that, as I said, gives you a sense of where this is going, the industry.

But, Madam President, I will confine my contribution today to what we are seeking to do, which is to provide the comprehensive framework for the governance of the industry as it is, and for the establishment of this regulatory commission, with the power to license premises, and operators, and suppliers, and key employees, and to regulate the entire industry. So, I will focus on what the legislation means for the industry as it now stands and for the business continuity, and then also I will speak a little bit to the Betting Levy Board, because the Bill does in fact address that. There are a few changes, and how this will affect the horse racing industry, because I do not think this has been spoken to at all.

So, we will talk as I speak about business expansion and continuity and the legitimization, the focus of the Government through this Bill, we have really witnessed the growth of the industry locally, where I can say that there is a gaming machine and there is activity in almost every nook and cranny of this

country, whether you are from Toco to Charlotteville, which are all of the urban areas. But the question I would ask you is, who benefits from these machines? Yes, employment will be created, but really it is just the owners have been benefiting from substantial revenue earnings. So it is everywhere as I have said, and surprisingly, yes, there are those that we know of, and so on, but there are also quite a number operating under the radar, and really reaping hundreds of thousands of dollars generating from all of this activity, and this really has to stop. And the way it is going to stop is through the enforcement of the legislation which is before us.

So, this Commission, Madam President, which remit is the regulation and enforcement of the industry, will be required—will require, sorry, the application for licences, and I know Sen. Mark made the comment that this is impractical and there are just too many licences and so on. But I want to say, this is in fact practical, and particularly because of how large the industry is, proper structure is required. It is not at all cumbersome at all. It is absolutely necessary. It is bringing clarity as to exactly what is required. We are providing for full accountability in every facet of the industry. So therefore, a number of licences are required, inclusive of the gaming operator's licence, the betting operator's licence, the gaming owners, the book makers, the promoter's licence. This thing is wide. The gaming machine operating licence, the gaming machine distributor licence, technical operator licence, premises licence, personal licence, gaming machine manufacturing licence, and any other that may be stipulated by the Commission. And I cannot help but support the crafting of this legislation, because all of this is absolutely necessary because of the various facets of the industry. And this is not about creating hardships, but again it is about strengthening and creating a path if

we are going to have any expansion at all, and if there is really going to be a way forward.

So, if I have to address the good, I will say the Bill also will create, you know, unique business opportunities, and there will be opportunities for expanding the tourism industry, and attracting foreign and local direct investment, addressing diversification. One person spoke about that earlier today, that this is in fact diversification in a sense. And all of this, as I said before, can lead to job creation and employment, foreign exchange earnings, and of course tax and other income generation as well.

2.30 p.m.

So there are a number of areas that investors may look to put their funds in and that includes a number of worldwide, you know—it still talks about all of these mobile apps and fantasy sports and so on, but also the horse racing industry, which has been under some trouble within Trinidad and Tobago largely because this the whole industry is really unregulated.

So there is a future but we are dealing with the—as I said before, we are dealing with what is before us and getting that right before we can think of all of the new entrance. And as I said, apart from the new product offerings, even physical casinos can really also be attractive for tourism. And we have seen that in the Bahamas and certainly in Panama and so on, but it is about getting it right and then ensuring that there is a regulated and transparent industry. Because as you know, in many countries—and we are not going there today— but many of them have built it into their resorts and so on. So it is a way of the industry. So in a sense, we have to capture, in looking at the value of it, what is this industry like throughout the world.

But I would raise another negative issue, as a Minister of Trade and Industry, we have been talking about this illicit trade and it really comes into this Bill as well. Because the unregulated industry is linked also to illicit trade and in more recent times, and I have spoken about it in this honourable House, we have seen a rise in the presence of illegally traded commodities, like tobacco and a particular alcohol. And, of course, we know that illicit trade can take the form of contraband goods and also counterfeiting goods and so on, and an adulteration of products, piracy, and tax evasion. That is very general. And we all know that this practice undermines legitimate local business as they are deprived of sales and, of course, resulting in the loss of significant revenue and so on, and we have done something about it in the Ministry of Trade and Industry. There is an accepted policy and a way forward. But you will be surprised that in the gambling sector, you would find, and it has been established, that there is the supply and sale of illegally traded alcohol and cigarettes within the industry as well. And someone mentioned it as well. There is the sale and the use of subpar gaming machines and software which could easily be manipulated and what you really would have a counterfeit machines. So that it does enter the space of the industry.

So we have to acknowledge—we cannot let this pass—we have to acknowledge the illegal gaming equipment and so on, that impacts illicit trade and, of course, all the illegal use of alcohol—the use of illegal alcohol and so on, as well. And so that, the Government, as I said, is taking action through its national policy and you would be seeing a lot more education and the establishment of standards for these particular affected goods. And as I said, all of this illegality has to be addressed as we fix the particular industry.

In speaking about the bad and I move to the ugly, and many persons before

me have spoken about the social concerns because of the very addictive activities that are associated with the industry. Because let us face it, there are a number of reasons why persons would chose to partake and some are driven by greed, others just want this escape from reality and let their steam off and so on, and others believe that they can make—believe that they can make some extra income and stabilize their financial situation, and we know that is—more often than not, that is not the case. So there are these negative socioeconomic concerns, so therefore attention has to be placed on it. And whilst we take care of the industry, attention must be placed on taking care of those who suffer from the ills that are associated with the industry.

So this—to assist in combatting the ills associated with gambling this legislation also aims to protect minors and other vulnerable persons from being harmed or exploited by gambling through the enforcement of strict laws against minors gambling and stiff penalties on the creation of this rehabilitation fund. This fund will be used to assist nongovernmental organizations and other groups working, with vulnerable persons and their families who are suffering the effects of gambling addiction and related hardships. And this fund will be 2.5 per cent of the moneys collected from gambling and betting. There is also another fund, the Development Fund, which will be 5 per cent of the moneys collected from gaming and betting and this fund will be utilized to assist persons in the areas of sport and social and community work, arts and culture and so on. So the population also will benefit in the end.

Additionally, clause 78 which speaks to the prohibition of betting in streets and public places. It details the new penalties for the offence, including a \$25,000 fine and imprisonment for one year if convicted on summary conviction and a

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wider fine of 3 million and imprisonment for seven years if convicted on indictment. And, Madam President, these penalties are much tougher than this current \$1,500 and it means to the general public all of this “wappie” and “whe-whe” and so on, you really have to watch out. It is prohibited in these public spaces. And you will find that we really—so the public will be warned and urged to utilize the legal forms of gambling where there are controls and measures to safeguard them—the public—and, of course, their earnings and their winnings as well.

The Bill, Madam President, makes a few amendments to the Betting Levy Board Act and to the Trinidad and Tobago Racing Authority Act, and these include the definition of Minister for both pieces of legislation. The definition will now refer to the Minister with the responsibility of finance. Currently, both these boards are under the purview of the Minister with the responsibility for industry and enterprise, that is the Minister of Trade and Industry. And you would know that one of the—and here is the connection. One of the main responsibilities of the Betting Levy Board is a collection of funds and based on the clauses and the essence of this Bill being debated today, it only makes sense that any entity and line to gambling be under the purview—and the collection of funds, be under the purview of the Minister of Finance. And it also makes sense that the TTRA who has regulatory responsibility, would also come under the remit of the Minister of Finance, so that there is this holistic governance approach for the industry.

So section 7 of the Act is now repealed, that is of the Betting Levy Board Act, and replaced with a new clause which defines the responsibilities of the board. And this new clause takes into account the current roles of the board and further expands it to allow the board to petition the development and the rehabilitation

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funds committee for funding when required and so on. And all of this is welcomed because we all know that the Betting Levy Board has seen some financial difficulties in perhaps over the last decade or so, but certainly in more recent time, and this provision will help alleviate some of their financial concerns and so on, in their—trying to execute their duties. And the Betting Levy Board has had issues in terms of—in the collection of betting taxes from the local betting shops and as such, the financial support for the industry has been stymied and they have been under strain and there has been a shortage of funds in the industry and generally, the industry has been falling on hard times. So this Bill is also going to assist and it also—the board now will also be responsible for providing benefits for jockeys and stable lads and so on, and all of this would be welcomed.

If we look further into this aspect of the Bill, Madam President, the Bill also seeks to repeal section 8 of the Act and replace it with two new levies, which are the pool betting levy and the fixed odds betting levy, and I do not think that I am going to have the time to go into all—how much time do I have, Madam President?

Madam President: Minister, you finish at 2.47 and it is 2.39 right now.

Sen. The Hon. P. Gopee-Scoon: Okay. So there are now two new levies, which are the pool betting levy and the fixed odds betting levy. And under the pool betting levy, 10 per cent of all bets made by way of pool betting, which will be payable on the Wednesday after the week in which the tax is deducted, would go towards the Betting Levy Board. And then, of course, this new clause makes provision for the Minister by Order and subject to negative resolution of Parliament to vary the rate of the pool betting levy in respect to live and simulcast horse and dog racing. There is also the fixed odds betting levy and that tax can be

calculated at 10 per cent of all bets placed at fixed odds or on annual levy of 400,000, whichever is greater of the two. And this 10 per cent levy will be paid by the bookmaker to the Betting Levy Board on the Wednesday after the week in which the tax is deducted.

And it must be noted that equal quarterly payments of the annual levy of 400,000 must be paid on or before January 2nd, April 1st, July 1st and October 1st in the next year. And where at the end of a quarter, the quarterly payment, in respect of the annual levies more than the sum of the fixed odds betting levy paid for during that quarter, the BLB will refund the sum of the fixed odds betting levy paid during the quarter. So it is good that these matters are addressed and, of course, in the event that a licensed bookmaker or a promotor fails to charge or pay the levy to the Betting Levy Board, it is considered an offence and the person is liable on summary conviction to a fine of 50,000 and imprisonment for six months and so on.

So all of these new aspects are dealt with—all of these aspects are dealt with in the Bill. The Bill also will seek to repeal section 9 of the Act and include a new clause which states that the funds received from the betting levy, both pool and fixed odds or annual levy from a promoter or a bookmaker will be utilized to cover expenses related to the systems in place to ensure compliance, be it administrative, technical or other. And further and quite importantly, the Bill also seeks to repeal section 12(1) of the Act, such that the Betting Levy Board will now make monthly payments of one-half of the moneys collected by way of the betting levy to the Consolidated Fund.

Madam President: Minister, you have five more minutes.

Sen. The Hon. P. Gopee-Scoon: Thank you. And this has already been stipulated

in law so it does not add any additional expense, but it is very important that we would now have compliance going forward. And other matters are addressed relating to the Betting Levy Board and the Trinidad and Tobago Racing Authority, but ultimately, this standardization and this fixing of all these outstanding matters will really ensure that there is an equitable playing field and really would weed out those persons who are unscrupulous in their dealings and chose to generally operate in an illegal way.

I want to say that horse racing, let us not ignore it. This really, globally, is a huge industry and it is an industry that has been very dear to Trinidad and Tobago for a long time, since the 1800s, and we have enjoyed it in Union Park, Marabella, and the savannah, and in Tobago and so on, and now in Arima. But let us face it, in the current environment, there is not much attraction to the industry and again that is an account of the inadequate regulatory framework and, of course, some of the unfair competitive advantage that is enjoyed by private betting shops and so on, and also by the private members club that operate as casinos and so on.

Then the implementation of this Bill will help this industry. And through the improvement in the regulatory framework and what would be created is certainty and predictability about the industry and therefore, this could potentially result in investors into the industry and let us say, the Arima Race Club, making long-term decisions and investments as to how they can truly operate. And this is going to—this allows them to look at this racino model, which is both the casino and the multipurpose entertainment complex, that I have been talking about, to complement the activities at Santa Rosa. And again, all of this is diversification.

So this revitalization of the industry will help us to promote—I see St. Lucia has run ahead of the pack; Barbados as well has done very, very well with their

industry and there is no reason why we cannot. As I said St. Lucia has gone ahead with this pearl of the—I think it is called the “Pearl of the Caribbean” track, yes, and the first phase is on. And I think there has been racing in this house of the island and surrounding that, of course, is the development of tourism and so on. They made it very, very attractive, the Saint Lucia Turf Club and so on.

So, as I close on the whole question of races, a lot around the world, the industries, big business and so on, and it is enjoyed and there is no reason why it cannot be enjoyed in Trinidad and Tobago. We really will not want to see it destroyed. And so, this gives all of the players in the horse racing industry a little impetus and drive to have a properly regulated horse racing industry as well.

So generally, as I close, Madam President, I am happy to join in support of this Bill. The Government has put forward a Bill which can easily be accepted by all Members here today and this, as I make the point again, this industry must not be about fattening the pockets of particular persons but it must include the payment of taxes to the State, as should be the case. It must be shared—the benefit must be shared across the board. I am pleased for the increase of the fines, that \$1,500 fine which existed before is simply not enough and also, there is a clause in the Bill on cheating and that is noteworthy. The Bill ventilates the definition thoroughly in clause 74 and the provisions are there where key stakeholders in the racing industry are not permitted to obtain the bookmakers and promoters licence, and this will go a long way to deterring any sort of cheating and fixing. A lot of fixing takes place and this is going to deal with all of that. And so, all the plans for the industry would be null and void if we did not properly enforce and the Bill has stipulated two types of enforcement through the unauthorized officer and through the TTPS. So I think we have comprehensively dealt with this as much as we can

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at this time and, Madam President, I wish to thank you for allowing me this contribution.

Madam President: Minister in the Office of the Attorney General and Legal Affairs. [*Desk thumping*]

The Minister in the Office of the Attorney General and Legal Affairs (Sen. The Hon. Renuka Sagrarsingh-Sooklal): Madam President, I thank you most sincerely for an opportunity to contribute to the Bill which appears before this most honourable Chamber today. Madam President, this Bill, if I may respectfully say, it is not only decades late but it is what I would say is “yugas” late. And “yugas” is the Hindi word for “it is eras late”. And I will tell you why I make reference to this.

Madam President, believe it or not, today we all looked on at the swearing in of the hon. Senator, Mr. Mohan, whom I congratulate on your appointment. And the hon. Senator, Madam President, he swore on the Bhagavad Gita and the Bhagavad Gita is one of the epic text of Hinduism. And what—looking on at his swearing in, I remembered how pertinent the Bhagavad Gita is to, believe it or not, the Bill which we are actually debating here today.

Madam President, I recall my days in the Ganesh Temple in Santa Cruz when my guruji, he would spend many times—a lot of time educating the younger ones and the Ramayan, the Bhagavad Gita and the Mahabharat. And I have to make mention to the gist of what the Bhagavad Gita speaks to, Madam President, and you will understand the pertinent. The Bhagavad Gita is, in essence—it is a dialogue that took place between Arjuna and Lord Krishna on the battlefield of “Kurukshetra”. And it was a battle between two families, the “Pandavas” and the “Kauravas”. And it was a battle for honour, it was a battle to save one’s lineage.

Now, predating the Bhagavad Gita, Madam President, it is also another religious text of Hinduism known as the “Mahabharat”. And the Mahabharat, Madam President, is what gave us the reason for that battle that took place in the Bhagavad Gita. And believe it or not, Madam President, the battle that took place in the Bhagavad Gita that was mentioned and spoke about in our Hindu text, the Mahabharat, was as a result of a game of dice. It was as a result of an unregulated game of dice.

In that particular text, which I will not certainly go into, Madam President, in the Mahabharat, it spoke about the problems that a society can face with unregulated games of dice; an unregulated game, Madam President, flawed by cheating, flawed by trickery, flawed by fraud. And as a result of this unregulated game of dice, and these stories are eras old, it spoke the negative implication it had on societies. Because the Mahabharat, in both the Gita spoke of empires and dynasties falling flat on its face because of an unregulated game. Therefore, Madam President, how pertinent it is that we have come as a Parliament to bring a law to regulate a system that definitely needs regulating? There is nothing called “overregulating” as referred to by hon. Sen. Wade Mark.

So, Madam President, I just want to place on the record my full support to the Minister of Finance in this Bill that we have brought today, a Bill that I will continue to repeat to say, it is not decades old, it is actually eras late. Madam President, in the course of my debate, there are certain pertinent points of law that I would want to address, law that—and certainly I would clear certain issues that were brought up by different Members of this honourable Senate during the course of their debate. And if I have some time, Madam President, certainly the crux of my debate, I would attempt to focus on the AML/CFT provisions, as alluded to in

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clauses 31, 38 and 51 of the Bill. And, of course, time permitting, I would also want to spend some time looking at Division 2 of the Bill.

Now, before I get to that, as I said before, there are certain points of law that I want to respectfully address. The first point that I want to address is respectfully a question actually that was asked by the hon. Sen. Teemal. And I recall the hon. Senator, Madam President, he asked—the hon. Senator basically said—he asked: Why was the Constitution of the board lengthy—it was a convoluted journey to appoint the first board? The hon. Senator was concerned that the deputy chairman and members of the board, their terms of appointment did not expire on the same day.

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

Well, Mr. Vice-President, respectfully in answering the hon. Senator's concern, I have to turn to the issue of corporate governance and the law as it relates to that. Hon. Senator, respectfully, this is what we termed in corporate governance, in this aspect of law, as a “staggered board”. And the law is very, very, clear, Mr. Vice-President, that a situation where certain classes of directors have different terms of appointment or periods and serve different terms, the law of corporate governance dictates that a staggered board prevents the company's hostile overtake and so on. But in the context of government, a staggered board it serves in insulating—believe it or not, it insulates a board from political influence.

So certainly, by the creation of this staggered board arrangement relative to this commission, it is not that we are being arbitrary on the law. It is not that the law is convoluted. It is actually good law, in this instance, for us to have a staggered board arrangement. So, for example, hon. Senator, if you give board members an appointment for a same term, then what that means is that everyone's

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term on the board, it actually ends at the same time. If that happens, you are talking about a lapse in setting up a new board and the appointment of a new members.

The predicament that we can face in a situation like that, is that, of course, if you do not have a constituted board, nothing can happen until that board is properly constituted. This particular provision, I would have looked at the provision again. It is drafted in the terms of, and it says within the Bill, not exceeding four years. So for the chairman—and others may get three years—this is to make possible the issue of a quorum, so that you will always have a quorum that this board can continue to operate. So let us say the chairman of the board, his term expires, you can still have a deputy chairman who is in existence. So therefore, the board is still constituted to the point that decisions can be made.

So just to address your concerns and your questions concerning what the construct and the terms of appointment, you can rest assured that this is not convoluted. It is in no way our—it is not a convoluted or lengthy journey. There was a lot of thought, a lot of corporate governance thought that went into the creation of this clause. So I do hope that you would consider giving us the support that we need because this is indeed actually very good law.

Mr. Vice-President, I also—I want to now address certain points that were made by my colleagues on the Opposition Bench. I must say—well, it is not a surprise, but I am disappointed that there is not more enthusiasm for the passage of this legislation. And respectfully I submit, Mr. Vice-President, standing in the way of this Bill is both unpatriotic and it is definitely obstructionist. Let us not—I want to respectfully say, Mr. Vice-President, let us not blind ourselves to the level of “smartmanism”, if I may borrow the hon. Prime Minister’s words, that exists and takes place in this country. And I respectfully believe it is always better for us as a

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Government to have control so that we could screen out the bad and keep the good, rather than simply leaving this system and leaving this industry unregulated.

Now, Mr. Vice-President, if I may respectfully address some of the comments made by the hon. Sen. Mark. Now, Sen. Mark he asked: What was the objective of the legislation? He said we administered a dose of poison, we are uncaring because we want to regulate an industry—well, he made mention of overregulating an industry. You know, if I may respectfully submit, we cannot and we must not develop a mentality that we must live for free in this country. We do not wish to shut down the gaming industry, that is but mere propaganda.

Mr. Vice-President, you know, why I say we must live for free, the purpose— one of the major polices behind this piece of legislation is because we all understand and we are not oblivious to the fact of the million-dollar industry that the gaming—or the millions of earnings that the gaming industry makes. And it is necessary that this industry becomes properly taxed and properly regulated, so that the Government and the country—the citizens of this country can benefit from.

Now, I was a member, I practised in private practice and even though I was not employed for the State as a lawyer, as a citizen of this country and this is not—I am in no way saying that I am perfect, but just being a citizen of this country and understanding my responsibility as a law-abiding citizen of this country, even in private practice, which I am sure like many of my colleagues in here, I ensured that I was tax compliant and I ensure that I paid taxes because we understand that it is our responsibility to do same. So by regulating this industry, I say to the hon. Sen. Mark, this is not our intention to stifle any sector of our society but it is just that this is what our country requires. This is what required of us as citizens of this country.

Mr. Vice-President, there was also a statement made by the hon. Senator on the point that landlords would be affected. He said that landlords would also be affected and that they would have to access what we call a “premises licence”. In response to this, Mr. Vice-President, I want to draw the hon. Senator’s attention to clause 40 of the Bill. Now, clause 40, Mr. Vice-President, it attaches conditions of a premise licence and in the law that appears before us, one pertinent condition is that the landlord must:

“place in a prominent place on the premises rules by which the licensed activities will be conducted, including rules prohibiting gambling by minors...”

3.00 p.m.

So, Mr. Vice-President, if we even look at international comparators—so, for example, if we look at the UK, under the Gambling Act it imposed similar licence conditions and codes of practice. So therefore, in this present law in its present carnation as it appears before this honourable Senate, we are also in alignment with international comparators that we would have turned to in assisting us in drafting this piece of legislation. There is also, Mr. Vice-President, a strict responsibility requirement set out for gambling establishment relative to the underage persons. So certainly I want to clear the record and I want put on the record that what we are doing, and as a Government here today, is certainly not whimsical and it certainly is in alignment with international comparators that we would have looked at in the drafting of this particular piece of legislation.

Now, if I may respectfully turn to some points that were made by the hon. Senator whom again—it is a pleasure to have the Senator here with us today. Personally, I feel it is a breath of fresh air in the Senate. Sen. Rambhajan, she

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would have asked the question and she spoke about the appointment of members of the Commission. She indicated—the hon. Senator said that that it is open to political manipulation because they are appointed by a Minister, and she also went into detail about no requirement for the Commissioners to declare their interest under oath.

Now, most respectfully I would say to the hon. Senator—most respectfully what I can say to the hon. Senator, Mr. Vice-President, if we turn, for example, to the public life Act, the Integrity in Public Life Act, once you are in public life, declarations, Mr. Vice-President, will have to be made. So that the members of the Commission even though they are not mentioned here, as long as they serve on that particular Commission, Mr. Vice-President, that is the Act that will require them to— As long as you sit on that Commission which is a state entity, this is where the Integrity in Public Life Act, that is what speaks to they having to declare and the onus is upon these Commissioners to make said declarations.

If we turn, for example, to section 21 of the Integrity in Public Life Act, Mr. Vice-President, we would see that persons who fail to declare—as we know who are in public life and they fail to file their declarations, it actually creates an offence for failure to do so and worse yet an offence, let us say, you have improperly declared or you have concealed relative information or declarations from the Integrity. So in that particular section, Mr. Vice-President, it speaks to once found guilty of an offence the said person will be liable to conviction, and it goes on to speak, of course, a summary conviction to a fine of \$250,000 and imprisonment for up until a term of 10 years. So this is really my response relative to the hon. Senator's concerns about—I believe the Senator would have asked who guarding the guard and what we have in place are other pieces of legislation, of

course, and there is an interoperability of laws which we must remember.

So while this particular legislation may not in detail spell out what is the responsibilities of all—and it does “eh”, because I can actually turn to clause 12 that speaks to the right of the members. Clause 12 of the Bill that appears before us that goes into detail about their responsibilities and the declarations that have to be made. But notwithstanding that, we have existing laws that members who sit on this Commission will be called to answer and will be called to declare their interest if they have an interest or so in the gaming industry. So to answer the hon. Senator, this particular Act is what we can use as or what we can say this is what will guard the guard.

Now even if we turn to section 29 of the said Act, which is the Integrity in Public Life Act, it speaks to the issue of conflicts of interest as well in the sense that as soon a conflict arises or same is discovered—and this is what it says, “one shall immediately disclose same and disqualify himself from the decision-making process”. So certainly I believe that there are measures in place if not only within the parameters of the law in its current incarnation or the Bill in its current incarnation as it appears before this honourable Senate, if we are to turn our minds to the Integrity in Public Life Act, and so on, that those are the other legal provisions that would ensure that the members who sit in this Commission that there are checks and balances placed over them. I invite the hon. Senator you can also look at the Schedule to this particular legislation and the Schedule spells out all of the persons whom that Act would capture. So this is in response to that point made by the hon. Senator.

The hon. Senator in her contribution as well also asked for clarity between the authorized verses, the enforcement officers, but you really did answer her

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question because I remember she asked the question or she placed the question as to whether one served an administrative function and one was serving in the function of enforcement officers like police officers and that is correct. Right. I am sure both the Attorney General and the Minister of Finance when we reach to the committee stage certainly I am sure they would be willing to hear what recommendations you have made and then, of course, they may take a decision relative to whether or not those would be accepted or not.

The hon. Senator also dealt with the issue of warrants and all I would add to the hon. Senator's contribution—and I am sure the hon. Senator is very much familiar with the case of *AG v Williams*, but I need to put on the record, Mr. Vice-President, it has been stated in this particular case applying for a warrant to access premises as we all know is nothing new to legislation, but one of the dicta that came out of this case which is very pertinent is:

The purpose of the requirement of a warrant be issued by a judge is a layer of protection between the citizen and the State. The function of the judicial officer is to satisfy himself that the prescribed circumstances exist. This is a duty of high constitutional importance.

And this case, of course, would have spoken to the issue of the warrants and what must be satisfied when a warrant is actually granted.

Now, I do hear the Senator's concern relative to a condition of a licence. So we are telling a man on one hand a condition of this licence is that you must give us access to your property and then—well access to the premises—and then on the other hand you are saying if you deny us access we can use the warrant. We can go and apply for a warrant. But the hon. Senator, I am sure in her practice as a criminal attorney and as a prosecutor, you would understand that applying for a

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warrant does not necessarily mean that you are going to be granted the said warrant, and this is where I believe the checks and balances and the rights of the person whom premises we want to enter is being protected. Because once you appear before a judicial officer you have to satisfy that judicial officer as to what are your reasons for making these said application and it is not going to be an ad hoc application, and as practitioners of the law you understand what are some of the questions that the court will ask you because, of course, you would have to show what is your reasonable suspicion, what is basis of that. And if and only when you are able to satisfy the court of same, then and only then we understand that that warrant will be granted.

Now, why I am also mentioning this is because we understand the rights and we recognize the rights of persons who run and operate these industries and own these operations, and certainly we are not going to advocate for any piece of legislation that is going to empower the police just to bang down a man door and roll into his operations. So with respect to the issue of the warrants I just want to put on the record that as a matter of fact because I know the Opposition has been speaking a lot about the constitutionality of the Bill and all of that. This, believe it or not, is one of the major provisions by ensuring that if access has not been granted to the premises, that we can do so by the application of a warrant. This actually is what creates the balance in the law ensuring that we are able to protect the constitutional rights of the person who would have been the owner or the operator of that particular establishment

Mr. Vice-President, I believe those are some of the points that I would have made note of that I wanted to address as points that were alluded to by those on the side opposite. As per the gist of my contribution, Mr. Vice-President, as I indicated

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before I would want to take the Members of this honourable Senate to clauses 31, 38 and 51 of the Bill that appears before us. Now these particular clauses, Mr. Vice-President, I want to place on the record that money laundering as we all know, it extends far beyond drugs. Money laundering encompasses profit motivated crime from banks, securities, trade and insurance, fraud to prostitution, extortion, arms smuggling, terrorism, and most importantly, illegal gambling because it is one of the avenues that often we know that money can laundered through.

Now, Mr. Vice-President, the current regulatory framework for gambling industries as we all know is outdated and there is certainly a need for reform. Now gambling establishments, Mr. Vice-President, they are in fact supervised entities, that is, listed businesses which face risks of money laundering, and then we have ML financing of terrorism and FT which we know is the proliferation financing. Now this, however, Mr. Vice-President, is not reflected in the law in its current incarnation, and this is why in this particular Bill that appears before this honourable Senate we seek to amend Schedule 2—sorry.

Mr. Vice-President, what we also did in, of course, in looking at the whole interoperability of law, we sought on a previous occasion, we sought to amend Schedule two of the Proceeds of Crime Act by inserting in the Proceeds of Crime Act, sorry, gaming and betting business. So again, this is a—I always hear the Attorney General speak about the alignment of laws position and we always speak to interoperability of laws. We understand that sometimes for one piece of legislation to work, consequential amendments would have to be made in other pieces of legislation. So, what I can say is that certainly when we would have amended Schedule two of the Proceeds of Crime Act, that would have been in

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anticipation, of course, of this Bill being passed. So we ensure that we are able to capture this industry under that piece of legislation, and therefore, all of the laws in this country as it would relate to money laundering, as it would relate terrorist financing, and all of that, would also apply.

Now, Mr. Vice-President, if we look—so, for example, if we look at the Bill before us, if we turn to clause 33 which states and clause 33 of the Bill which appears before us, it states:

“(1) The Commission shall assess an applicant as fit and proper, pursuant to the criteria set out in Schedule 2, prior to the granting of a licence.”

What I would now like to do, Mr. Vice-President, is—and, of course, to avoid tedious repetition because I know the hon. Minister of Finance went into some detail with the criteria of fit and proper, I would also just like to briefly address that legal point for the record.

Now, Mr. Vice-President, I would like to explain to the general public the “fit and proper criteria”, right. Now this criteria, “fit and proper criteria”, is a mechanism as we know in law which the gambling commission would use when a person applies for a licence and where for certain specific events such as appointing a new member of the Commission may occur. Now, in paragraph one of Schedule 2 of the Bill that appears before us in its current incarnation, it says:

“Every person shall be considered fit and proper if that person is of good character, competent, honest, financially sound, reputable, reliable and discharges and is likely to discharge his responsibilities fairly.”

Now, Mr. Vice-President, to this end I want to place that this stems from the FATF Recommendation 28. So again, the issue of “fit and proper” was not pulled out of a hat. As in drafting this particular law, Mr. Vice-President, we would have

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used Recommendation 28 as our guidance. Now Recommendation 28, this is the aspect, this is the FATF requirement which requires that businesses be subject to—and if I may take from the actual Recommendation, “subject to regulatory measures on the basis of risk-sensitive approach through subjecting persons”—

Mr. Vice-President: Senator, you end at 3.17.

Sen. The Hon. R. Sagramsingh-Sooklal: Pardon?

Mr. Vice-President: You end at 3.17.

Sen. The Hon. R. Sagramsingh-Sooklal: Thank you, Mr. Vice-President.

This is subject to regulatory measures on the basis of sensitive approach through subjecting persons in managerial functions to a fit and proper test in order to prevent criminals and their associates from holding managerial functions in business.

So, of course, this again we would not only be doing a great service to Trinidad and Tobago by ensuring that we are in compliance with Recommendation 28, but what we would also be doing by incorporating the fit and proper test, we would be ensuring that we are able as a Parliament to be able to regularize who are the persons that are granted licences to run operations like this. And again, this goes back to us being able to put a handle on white collar crime and being able to ensure that the persons who are able to satisfy us that they are entitle to operate these establishments, they would be able to satisfy us where they are getting their funding from and certainly that is going to have substantial benefits to our criminal justice system.

Mr. Vice-President, I must also mention clause 31 of the Bill which appears before us in its current incarnation. Now this establishes the FIU to be the supervisory authority for AML/CFT and PF supervision on gaming establishments.

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Now the question is: what exactly does this mean? Mr. Vice-President, a gambling establishment now will have an obligation of applying for registration with the FIUTT within five business days of obtaining its licence to operate as a gaming and betting establishment. And again, this is where we look at whole—

Mr. Vice-President: Senator.

Sen. The Hon. R. Sagrarsingh-Sooklal: Yeah. So, Mr. Vice-President, this again is a very significant introduction in this particular clause because again it will assist us in our attempt as a Government to pilot legislation that is going to help us to put a handle, and if not devoid our society completely of money laundering and terrorist financing because persons now upon even being granted said licence, you are now demanded to register with a stipulated time frame with FIUTT. So therefore now, FIU can flag you and you would be under their radars and we can monitor your establishment. We can monitor the money that you are banking, all of those things which, of course, I would want to believe that Trinidad and Tobago will be most happy about.

So to that end, Mr. Vice-President, I want to thank you very much for the opportunity to contribute and I want to speak to Trinidad and Tobago and just to reinforce to the members of the public that this is a Government that is working for you, and this is yet the PNM's attempt, and this Government's attempt to serve all manner of people in Trinidad and Tobago. I thank you, Mr. Vice-President. [*Desk thumping*]

ADJOURNMENT

Mr. Vice-President: Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Mr. Vice-President, I beg to move that this House do now adjourn to

Adjournment (cont'd)
Sen. The Hon. C. Rambharat (cont'd)

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Monday, June 21, 2021 at 10.00 a.m. On that day we intend to proceed with the debate and take the Bill through all the remaining stages. Thank you.

Mr. Vice-President: Hon. Senators, before I put the question, I now invite Senators to bring greetings on the occasion of Labour Day to be observed on June the 19th, 2021. Minister in the Office of the Ministry of Public Administration and Digital Transformation. [*Desk thumping*]

Labour Day Greetings

The Minister in the Office of Public Administration and Digital Transformation (Sen. The Hon. Hassel Bacchus): Thank you very much, Mr. Vice-President. Hon Senators, Opposition, Independent, my colleagues in the Government, Trinidad and Tobago and especially members of the labour movement, good afternoon. I am indeed gratified to have this opportunity to bring salutations on behalf of the Government on this undeniably significant, purposeful and nation shaping occasion of the anniversary of the Butler oilfield riots of 1937, riots born out of a movement whose genesis can be traced back to almost 100 years earlier to emancipation to one that has led to sweeping repercussions in the political sphere and across the industrial landscape.

Since 1973, Mr. Vice-President, every year on June 19th we in Trinidad and Tobago observe Labour Day as a public holiday, but, Mr. Vice-President, what are we really celebrating? We celebrate, Mr. Vice-President, those very historic achievements of the labour movement and the invaluable contributions made to the social and economic development of Trinidad and Tobago.

Mr. Vice-President, in another incarnation I was a proud member of a progressive trade union and I like thousands of my comrades participated in, over the years in the activities including the traditional Labour Day festivities where we would converge on Charlie King junction in Fyzabad to celebrate the greats of the

labour movement. Greats such as Captain Cipriani, Adrian Rienzi, Elma Francois, George Weekes, Albert Gomes, CLR James and, of course, Tubal Uriah “Buzz” Butler and so many more.

These towering pillars of our national infrastructure and national structure relentlessly advocated and fought for workers’ rights and justice and for better working conditions and fair wages for all of the working class. It was their determination and activism that shaped what were established formal relations and recognition between employers and workers. For the second consecutive year as we like the rest of the world find ourselves in the throes of the COVID-19 pandemic, the celebrations this year will be by necessity have to be different.

Mr. Vice-President, I am confident that the same innovation, creativity and stick-to-itiveness that keeps the movement strong, will be used to find ways to have meaningful and widespread but safe celebrations. Despite these difficult economic times the relevance and evolution of the trade union movement cannot be understated. The struggle, Mr. Vice-President, is not just lost on me where I stand now, but that struggle between capital and labour does not mean that Government and the labour movement are not pursuing goals that are aligned. I want to repeat that. It is not that they are not pursuing goals that are aligned; they are pursuing goals that ultimately are aligned.

As a matter of fact, Mr. Vice-President, it is critical that the established mechanism continue to be used to allow for all sides to work together for the benefit of the citizenry of this archipelagic Republic that we have. It is together, Mr. Vice-President, and only together that we as citizens of Trinidad and Tobago shall overcome. As I bring greetings, I uphold the labour movement for the contributions they have that made and that they continue to make, and I am confident that they will rise to the challenges of the present thereby ensuring a

prosperous future for Trinidad and Tobago.

Mr. Vice-President, with your leave may I also identify another day of significance? Fathers' Day is being celebrated on Sunday, 20th of June, and I on behalf of those of this side offer best wishes and happy Fathers' Day to all the fathers in Trinidad and Tobago and, of course, all the fathers present here in the Chamber. I thank you, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: Sen. Mark.

Sen. Wade Mark: Thank you. Thank you, Mr. Vice-President. Mr. Vice-President, Saturday, June 19, 2021, will mark the 84th anniversary of the labour movement in Trinidad and Tobago. We have noted that June the 19th, 2021, will also mark and be celebrated for the first time as a public holiday in the United States, recognizing the end of slavery in 1865. On June the 19th of each year the working class celebrate our heroic and victorious uprising against British colonialism and imperialism, starvation, wages, mass retrenchment, high unemployment, rampant inflation, abject poverty, racial abuse by white managers, unbearable rents for barrack houses and deplorable living conditions.

Mr. Vice-President, the working people at this time continue to face major challenges, but in 1937 this great uprising changed the course of history forever, because it was as a result of that uprising that we were able to fulfil self-independence, ultimately Independence, and Republican status.

Mr. Vice-President, the COVID-19 pandemic has brought about major challenges for the trade union movement and the working class. It seems as if the working class in this period of pandemic has experienced a severe weakening of its ability in numbers to properly represent the workers, whilst leaving the elite in our nation literally unscathed.

Mr. Vice-President, if I may share with you some of the challenges that the

labour movement faced and continue to face during this pandemic. Trade union rights have been somewhat circumscribed by this pandemic; they have had restrictions in the rights to engage in peaceful demonstrations; there has also been a long and outstanding period in which negotiations, both at the public service and the private sector, have not been successful. As far as I recall, Mr. Vice-President, not a single negotiation has been settled. In fact, it appears, Mr. Vice-President, that collective bargaining in this country is literally dead. There has been rampant retrenchment of workers in several industries over the last few years. There has also been a slowdown in conciliation matters.

Mr. Vice-President, it is clear that there continues to be direct and indirect assault on the process of collective bargaining and good industrial relations. So we are hoping, Mr. Vice-President, that this period that we are faced with in Trinidad and Tobago will usher in a revival of our trade union movement.

So on behalf on this occasion of lockdown, Mr. Vice-President, sometimes you wonder if it is a lockdown not only of the country, but a lockdown of your rights and freedoms, I want to say on the occasion of Labour Day 2021, on behalf of the United National Congress, on behalf of the Opposition in this Parliament, on behalf of the Leader of the United National Congress official Opposition, we would like to extend to the labour movement and to the working class militant solidarity greetings on this occasion as we celebrate with them the 84th anniversary of the founding of the modern trade union movement in the Republic of Trinidad and Tobago. And may I also join my colleague who just extended, I would like to also extend to all the fathers in Trinidad and Tobago and in this Chamber happy Fathers' Day as well, Mr. Vice-President. I thank you very much, Mr. Vice President. [*Desk thumping*]

Mr. Vice-President: Sen. Richards.

3.30 p.m.

Sen. Paul Richards: Thank you, Mr. Vice-President. I do join my colleagues on behalf of the Members on the Independent Bench on bringing greetings on the occasion of Labour Day 2021.

The COVID-19 pandemic is having a dramatic economic impact in most if not all countries around the world, including Trinidad and Tobago. Around the world, it has led to a sharp fall in labour demand in most sectors of the economy and to acute labour shortages in other sectors. It is much more than a typical downturn. The current crisis, it is not simply a general slowdown in economic activity, it is a radical short-term shift hopefully in the mix of economic activities for which the future is unknown and possibly significant and possibly will be persistent for some time to come.

Unfortunately, the working class is hardest hit: lay-offs, terminations, reduced working hours, job losses and consequent reductions in incomes, inability to feed their families and in some instances, arbitrary changes to terms and conditions without consultation. Thousands are living pay cheque to pay cheque having been pushed below the poverty line. Primarily, small and medium-sized businesses in some instances have been crushed.

This pandemic, however, offers the opportunity for us to re-engineer the relationships between employer and employee, the State and the trade union movement. This, in many ways, is a watershed moment in our history and history is important. Between 1934 and 1937, workers became more influenced by the need for change resulting in at that time, strikes and riots at the sugar plantations and in the oilfields.

In September of 1937, the Oilfield Workers' Trade Union, the OWTU, also became the first registered trade union in the country, representing the rights of

those in the petroleum industry. The hard-fought victories from pioneers including Tubal Uriah “Buzz” Butler, George Weekes, Arthur Andrew Cipriani, Albert Maria Gomes, Adrian Cola Rienzi, Elma Francois, CLR James and hundreds of others provide a monumental foundation for today’s potential that can only be realized through dialogue, consultations, mutual respect and innovative approaches. It may sound cliché but as a country, united we stand, divided we fall, lest we commit to our Watchwords: Discipline, Tolerance and Production and our Motto: Together we aspire, Together we achieve.

On behalf of my colleagues on the Independent Bench, we want to wish you a happy and safe Labour Day 2021 and also happy Father’s Day. Thank you.

Mr. Vice-President: Hon. Senators, I am honoured to join the previous speakers in bringing greetings on the occasion of Labour Day on the eve of the 84th anniversary of the landmark of labour riots of 1937. The aftermath of the 1937 riots and further protests brought about major transformative changes in the labour movement, such as the legal recognition of trade unions, the right to strike and to engage in the collective bargaining process. We acknowledge and pay homage to influential persons such as Tubal Uriah “Buzz” Butler, Captain Arthur Andrew Cipriani, George Weekes, Albert Maria Gomes, Adrian Cola Rienzi, Elma Francois, Bhadase Sagan Maraj, Boysie Moore Jones, Nuevo Diaz, Nathaniel Crichlow, Francis Mungroo, Aynsley Matthews and the list goes on and on.

Hon. Senators, let us also not forget Corporal Charlie King, Sub-Inspector Bradburn and the nine civilians who tragically lost their lives as a result of the 1937 riots. It is therefore with a debt of respect and with gratitude that I join the Senators before me in wishing all citizens of Trinidad and Tobago and the members of the labour movement a peaceful and enjoyable Labour Day 2021. And let me just add, according to Senators as well, a happy Father’s Day. [*Desk*

Labour Day Greetings
Mr. Vice-President (cont'd)

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thumping]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.34 p.m.