



THE REPUBLIC OF TRINIDAD AND TOBAGO
ATTORNEY GENERAL & MINISTER OF LEGAL AFFAIRS
THE HONOURABLE FARIS AL RAWI, LL.B, LL.M.

July 20, 2017

Mr. DOUGLAS MENDES, S.C.

The President

Law Association of Trinidad and Tobago

2nd Floor Nos. 95- 97 Frederick Street

PORT OF SPAIN



Dear Mr. Mendes S.C.,

**RE: MISCELLANEOUS PROVISIONS (SUMMARY COURTS AND PRELIMINARY ENQUIRIES)
BILL, 2017**

I write with reference to the matter at subject and wish to seek your urgent advice on the attached Bill.

The issue of the outstanding indictable and summary matters that were part-heard before Her Worship Ayers-Caesar continues to be unresolved. The government has been urged to consider exigent legislative intervention in order to ensure the orderly disposition of these matters and prevent any further delay and/or future recurrence of such stymied progress in criminal matters due to administrative factors.

In respect of preliminary enquiries, the attached Bill seeks to expand the existing limited jurisdiction of the Director of Public Prosecutions to prefer a voluntary bill of indictment pursuant to section 23(8) of the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01 to include instances where a presiding Magistrate is unable to complete or continue a preliminary enquiry, for any reason.

Further, where the DPP does not prefer a voluntary bill of indictment and a Magistrate is unable to complete a preliminary enquiry for any reason, the Bill seeks to create a power for another Magistrate to hold a new preliminary enquiry or continue the preliminary enquiry in the interest of justice and with consent of parties.

In respect of summary matters, the Bill seeks to create a power for another Magistrate to conduct a new trial or continue the trial with consent of parties, where the presiding Magistrate is unable to complete or continue the hearing of that matter, for any reason.

The government is eager to proceed with this legislation and as a valued stakeholder, will be grateful for the input of the Law Association before the Bill is presented to the Parliament in the upcoming week.

In this regard, it will be greatly appreciated if the comments/recommendations on the said Bill can be received by **Monday 24th July, 2017.**

I take the opportunity to thank you in anticipation of your valued contribution. I remain

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Faris Al-Rawi', is written over a horizontal line.

Faris Al-Rawi
Attorney General and Minister of Legal Affairs

BILL

An Act to amend the Summary Courts Act, Chap. 4:20 and
the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title 1. This Act may be cited as the Miscellaneous Provisions (Summary
Courts and Preliminary Enquiries) Act, 2017.

PART I SUMMARY COURTS

Chap. 4:20
amended 2. Section 6 of the Summary Courts Act is amended by inserting after
subsection (2), the following subsections:

“ (2A) Where a Magistrate has begun a trial in respect of a summary
offence and is unable to complete or continue the trial for any
reason, including but not limited to the reasons specified in
subsection (2B), another Magistrate shall have the power and
jurisdiction to, and may-

(a) conduct a new trial in respect of the same offence; or

(b) where the parties consent and the Magistrate is satisfied
that it is in the interest of justice to do so, continue the
trial.

(2B) The reasons referred to in subsection (2A) are –

(a) recusal from the case;

(b) resignation;

(c) retirement;

(d) dismissal;

(e) abandonment of office;

(f) vacation of office;

(g) ill health for a continuous period of at least six months
from his last day of sitting in the case; or

(h) death.”.

PART II INDICTABLE OFFENCES (PRELIMINARY ENQUIRY)

Definition
Chap. 12:01

3. In this Part, “the Act” means the Indictable Offences (Preliminary

Enquiry) Act.

Section 14
amended

3. Section 14 of the Act is amended by inserting after subsection (4), the following subsection:

“(5) Where a Magistrate is unable to complete a preliminary enquiry for any of the reasons set out in section 23(8)(c), and the Director of Public Prosecutions has not preferred an indictment under section 23(8), another Magistrate shall have the power and jurisdiction to, and may-

- (a) hold a new preliminary enquiry; or
- (b) where the parties consent and the Magistrate is satisfied that it is in the interest of the administration of justice to do so, continue the preliminary enquiry.”.

Section 23
amended

4. Section 23 of the Act is amended –

(a) in subsection (8)-

(i) in the chapeau –

- (A) by inserting after the word “(7)” the words “and without prejudice to section 90 of the Constitution,”; and
- (B) by deleting the words “or the Deputy Director of Public Prosecutions”; and

(ii) by deleting paragraph (c) and substituting the following paragraph:

“(c) where a Magistrate has begun a preliminary enquiry and is unable to complete or continue the preliminary enquiry for any reason including, but not limited to –

- (i) recusal from the case;
- (ii) resignation;
- (iii) retirement;
- (iv) dismissal;
- (v) abandonment of office;
- (vi) vacation of office; or
- (vii) ill health for a continuous period of at least six months from his last day of sitting in the case; or
- (viii) death.”; and

(b) by inserting after subsection (9), the following subsections;

“(10) Where the Director of Public Prosecutions has preferred an indictment under section 23(8)(c), the Director of Public Prosecutions shall serve on the High

Court and the accused person, the indictment and the written evidence which the Director of Public Prosecutions certifies as disclosing evidence of a *prima facie* case against the accused person for the indictable offence.

(11) Where the Director of Public Prosecutions has preferred an indictment pursuant to section 23(8)(c), the accused person shall have the right to apply to the High Court to quash the indictment on the grounds that the written evidence does not disclose a *prima facie* case.

(12) An application made by an accused person under subsection (11), shall be made within three months from the date of service of the indictment and its supporting evidence.”.

Section 28
amended

5. Section 28 of the Act is amended by inserting after subsection (6), the following subsection;

Chap. 4:60

“(7) A Magistrate may grant bail in accordance with the Bail Act to any person charged with an offence and in respect of whom a preliminary enquiry is to be held pursuant to section 14(5).”.

Passed in the House of Representatives this day of , 2017

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2017.

Clerk of the Senate

I confirm the above.

President of the Senate

DRAFT