

Leave of Absence

Friday, November 03, 2006

HOUSE OF REPRESENTATIVES

Friday, November 03, 2006

The House met at 1.30 p.m.

PRAYERS

[MR. DEPUTY SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Deputy Speaker: Hon. Members, I have received communication from the Member for Port of Spain South (Mr. Eric Williams), requesting leave of absence from sittings of the House for the period October 31, 2006 to November 19, 2006.

The leave which the Member seeks is granted.

**DEFINITE URGENT MATTERS
(LEAVE)**

**Distribution of Caroni (1975) Limited Lands
(Government's Failure of)**

Mr. Manohar Ramsaran (*Chaguanas*): Mr. Deputy Speaker, in accordance with Standing Order No. 12 of the House of Representatives, I hereby seek your leave to move the adjournment of the House for the purpose of discussing the following matter of urgent public importance, namely: The failure of the Government to expedite the distribution of lands to workers of Caroni (1975) Limited.

The matter is definite because it relates to the undertaking of Government to provide land as part of its compensation package. The matter is urgent because three years have elapsed and there is no indication when the matter will be dealt with. It is of public importance because approximately 100,000 persons were affected by the closure of Caroni (1975) Limited.

Ex-workers obviously now unemployed have used up their severance benefits, there is a state of mass depression in the former sugar belt, and further, the high cost of living, plus 9.6 per cent inflation is having a very negative impact on these citizens.

Thank you very much.

Mr. Deputy Speaker: Hon. Member, the matter about which you have just spoken is important, but does not qualify for discussion under Standing Order No. 12.

Dr. Rowley: And he knows it.

**Gasparillo Police Station
(Construction of)**

Dr. Adesh Nanan (*Tabaquite*): Mr. Deputy Speaker, in accordance with Standing Order No. 12, I hereby seek your leave to move the adjournment of the House for the purpose of discussing the following matter as a definite matter of urgent public importance namely: The failure of the Government to complete the construction of the Gasparillo Police Station. The matter is definite because two teenagers who were walking close to their homes one afternoon were robbed.

The matter is urgent because this said incident has sparked fear in the residents of Gasparillo and environs who are afraid to walk the streets. The matter is of public importance because the jurisdiction of the Gasparillo police includes the areas of Mayo, Williamsville, Reform, Caratal, Bon Aventure, Harmony Hall and Gasparillo where over 15,000 residents continue to be at the mercy of rapists, murderers, and bandits.

Mr. Deputy Speaker: Hon. Member, the matter does not qualify; I suggest you raise it under Standing Order No. 11.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL

Order for second reading read.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Deputy Speaker, I beg to move:

That a Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50 be now read a second time.

Before I begin my presentation, I want to thank the Members opposite in advance for supporting the principles behind this Bill, and I wish to indicate that any recommendations, proposals or suggestion that hon. Members may have to improve or enhance the effectiveness of this long overdue legislation will be warmly received on this side. This Bill requires a special majority and, therefore, I am thanking them in advance for supporting the legislation because this is landmark legislation. It is constitutional change and, as I said before, this is long overdue.

Allow me now to give some background. In the research I did on this legislation, I discovered that since 1960, 46 years, the Trinidad and Tobago National Council on Alcoholism had campaigned for the introduction of breath analyzing equipment in Trinidad and Tobago. [*Interruption*] Yes, it is 46 years, and I am not going to hide anything, this is a fact. I previously thought that it was about 20 years, but in doing the research I discovered that there had been calls for

this in the '60s and some 20 years ago research conducted by the former late Independent Senator Prof. Michael Beaubrun and his colleagues, found that the blood alcohol levels of some road accident victims at the Port of Spain General Hospital were as much as .5 per cent. Allow me now to give you some idea of what that means. I am reading from something that is easily available from a free encyclopaedia which information is not tested. Before the Member for Tabaquite jumps up, I am well aware that the information is not tested but in many cases it is quite accurate.

Mr. Sharma: Is it accurate?

Hon. C. Imbert: Well, it is free and people can edit and amend it and so forth, and it is up to others to determine whether it is accurate or not. But on this website, it gives a table which deals with the effects of alcohol at different blood alcohol contents and it indicates if you have three drinks, your blood alcohol content would be in the vicinity of .09 per cent and the typical effect after three drinks is noticeable, cognitive changes.

After eight drinks, your blood alcohol content goes up to about 0.2 per cent, at that time the person is intoxicated and is in a state of delirium. After 20 drinks, the blood alcohol goes up to 0.4 per cent and you lose consciousness according to this website and above 0.5 per cent which is over 25 to 30 drinks, the typical effect is death.

If we take that back to the findings of Prof. Beaubrun, he found that in many cases the blood alcohol levels of accident victims were close to 0.5 per cent, so they were already close to death in terms of the level of intoxication. He concluded from that, that we had a very serious problem in Trinidad and Tobago because we had very intoxicated people driving on our roads. We still do. It is a fact, but the level of intoxication is what I am driving at where .09 per cent is a normal indicator in terms of impairment. We had people in Trinidad and Tobago at 0.5 per cent which is beyond loss of consciousness.

By way of comparison, the American Medical Association has determined that persons in the .04 or .05 per cent range of blood alcohol content are impaired, and a finding of 0.16 per cent usually results in the driver's arrest, and at .25 per cent—this is the findings of the American Medical Association—there is a significant high level of impairment with the requirement of medical attention.

Now the effect of alcohol on the performance of drivers is one of the most researched and thoroughly studied areas of road study all over the world. The scientific community all over the world agrees on the detrimental effects of

alcohol on road safety. There is no dispute about this, and it is imperative that we now take firm steps to deal with this matter to introduce the breathalyser, to improve road safety and reduce the habit of drinking and driving that is very prevalent in Trinidad and Tobago. I do not think any reasonable person could possibly be against or opposed to this legislation.

It will require some cultural change; there is no two ways about it. We do not have any culture in Trinidad and Tobago of breathalyser testing. The law as it stands now is quite weak; the police officer has to make a judgment without any scientific evidence of the level of impairment. He has to check the smell of the breath and things like that, but it is all very judgmental, it is not a scientific test, and that is why it is very timely today that we are debating this matter so we can now bring some science into this and determine whether persons are above the permissible blood alcohol content or not.

Dr. Rafeeq: Mr. Minister, I am very interested in this debate and I thank you for giving way. I want to find out, in the information you gave as to the blood levels and so forth and the effects of those blood levels of alcohol, do you have any information as to how soon that is reversed after the intake of alcohol? For instance, if there is a 1.5, how soon is that reversed? Because I saw in the legislation that even up to two hours, a sample can be taken at home so I want to find out if you have any information on that.

Hon. C. Imbert: That is something I can get some definitive information on, but the two-hour period in the Bill is based on findings in other countries, that after two hours the blood alcohol content starts to reduce below levels where you will be able to prosecute or convict somebody. You will start to get into the realm of argument as to whether the person was impaired or not, but that is something on which I can get you some definitive information when we return in terms of the time period and the effect of alcohol and how long it stays in the system and so forth.

The purpose of the Bill is to give the police the power to stop motorists and engage in an investigative procedure at the roadside in order to make an informed determination of whether there are reasonable grounds to believe that a driver is impaired or otherwise over the blood alcohol level. So the breathalyser instrument is a roadside testing device and the purpose of the legislation is to give police officers the ability to test people at the scene.

Now there are other provisions in the legislation which I will go into in a little while, where there are provisions that will allow testing at somebody's home if a police officer has reason to suspect that a person has been involved in an accident

and is driving under the influence, and also testing at a hospital and a police station and so forth.

The purpose of the breathalyser is to give an immediate test at the roadside and give the police officer the investigative ability using a scientific instrument to determine whether the person is over the prescribed blood alcohol level.

At this time, the police can only rely on section 70(l) of the Motor Vehicles and Road Traffic Act which states as follows:

“Any person who, when drinking and attempting to drive or when in charge of a motor vehicle on a road, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, is liable on first conviction to a fine of two thousand dollars and to imprisonment for six months and on any subsequent conviction to a fine of four thousand dollars and to imprisonment for twelve months.”

Now, this provision severely limits and impairs police officers. *[Interruption]* This is what is in the law right now. This is not what we are bringing, this is what is here and it limits and impairs police officers’ ability to secure conviction because it is difficult for them to prove to a magistrate’s satisfaction that the drink actually impaired the motorist’s ability to drive, or what was the extent of the impairment because it is all judgmental, it is not scientific and, therefore, it is virtually useless.

Mrs. Persad-Bissessar: Subjective.

Hon. C. Imbert: Yes, subjective. *[Interruption]* Mr. Deputy Speaker, I am interrupted by the Member to the left of me, but he made the point that it is a lawyer’s paradise in terms of determining who is drunk or not and who is impaired and so forth.

What this Bill seeks to introduce is a regime of breath and blood testing and analysis in order to reduce the deleterious effects of driving under the influence of alcohol. *[Crosstalk]*

Mr. Deputy Speaker, I may have to ask you for protection.

Mr. Deputy Speaker: Member for Diego Martin West, and Member for Couva South, the Member is asking for protection.

Hon. C. Imbert: Thank you very much, Mr. Deputy Speaker. *[Interruption]* Yes, we are all trying to be very sober today. This is part of the crime prevention legislative package and I think it was the Opposition, when there was discussion on crime legislation—I am subject to correction—who asked for this legislation to be included in the crime package and I congratulate them for that.

The Bill will empower police constables to demand samples of breath and in certain instances samples of blood from persons thought to be driving under the influence of alcohol. It will amend section 70 of the Motor Vehicles and Road Traffic Act and permit the use of breathalyzer devices to record and provide evidence of speeding offences and to eliminate the requirement for corroborative evidence in the prosecution of such offences. In other words, the breathalyzer test would be taken to be sufficient to establish that the person was driving under the influence and his/her blood alcohol content was over the limit. The only challenge a person would have after that—

Mr. Sharma: What about the international standards?

Hon. C. Imbert: I am coming to that. The only challenge a person would have after that is whether the instrument was properly calibrated, whether the police constable operated it properly; whether he was trained to operate it; whether he took the sample properly and so on. Those are the challenges people would have, but once it is established that the equipment was working properly, the test was properly performed, the constable was trained and was proficient in the use of the instrument, and it gives a reading above the prescribed limit, that would be taken as sufficient evidence that the person was driving under the influence of alcohol and in an impaired condition. So it is a fundamental reform of our motor vehicles and road traffic laws.

The Bill will create an offence of driving or attempting to drive, or being in charge of a motor vehicle while the concentration of alcohol in the blood exceeds the prescribed limit. Let me go to the back of the legislation and if one looks at page 19, clause 5 new section 70G (1) the definition section that deals with the prescribed limit says:

“‘the prescribed limit’ means in respect of—

- (a) breath alcohol concentration, thirty-five microgrammes of alcohol in one hundred millilitres of breath or such other portion as may be prescribed; and
- (b) blood alcohol concentration, eighty milligrammes of alcohol in one hundred milliliters of blood, or such other proportion as may be prescribed.”

Let me show you how this compares to the rest of the world. This is equivalent to .08 per cent blood alcohol content. Countries that have a .08 per cent at this time include Mexico, New Zealand, United Kingdom, United States of America and Canada. In the US, there are alcohol contents which vary state by state and some of the states have a .08 per cent limit.

Countries that have a lower limit, a .05 per cent limit include Argentina, Australia, Austria, Belgium, Croatia, Finland, Germany, Iceland, Netherlands, et cetera. [*Interruption*] I am just giving you an idea of what is happening in the world. I have read out the countries that have a .08 per cent limit including the UK, New Zealand and Canada—

Mr. Ramnath: That is blood-alcohol?

Hon. C. Imbert: blood-alcohol yes. In terms of the countries that have a lower blood alcohol limit are Argentina, Australia, Austria, et cetera. In Japan, there is a bizarre system where the police say that the legal limit is zero, so they have changed. This came about in 2002 when there was a DUI incident in Japan involving the deaths of two children causing a revision and the limit was set at .25 per cent and then it was lowered to .15 per cent in Japan, but that is still one of the highest allowed in the world. So Japan went from zero to .15 per cent. We are seeking to establish a .08 per cent.

Mr. Sharma: What is the reason for that?

Hon. C. Imbert: I am coming to that; take it easy.

Mr. Ramnath: How many drinks would that be?

Hon. C. Imbert: That is between two and three drinks.

Mr. Singh: Of what, beers, rum?

Hon. C. Imbert: Beers, about three beers. But when I return I will give you in terms of puncheon rum, whisky—[*Interruption*] so people would know. As I said, when I return I will give precise figures on the amount and types of drinks, but at this time after three beers you will be—[*Crosstalk*]

Mr. Deputy Speaker, I am speaking to you. The Member for Caroni East has asked a question and I am answering. After three beers, you will be over the limit as we have prescribed in this legislation.

Mr. Singh: Effectively then, it is two beers. If after three beers you are over the limit, then effectively, your limit is two beers.

Hon. C. Imbert: It all depends on the alcohol content.

Mr. Ramsaran: Thank you for giving way. I have been doing some research and I understand that different people have different thresholds with alcohol, so one beer will affect one and three beers will affect another person.

Dr. Nanan: I thank the Member for giving way. Mr. Deputy Speaker, I think

the Member should not use beer because it has high carbohydrate content and it is not picked up from the stomach as readily as other alcohol beverages.

Hon. C. Imbert: As I said, Mr. Deputy Speaker, when I return I will give specific examples on different types of alcohol beverages commonly in use in Trinidad and Tobago today.

The Member for Caroni East asked me about beer—I do not know if you were aware of what he asked—and I answered him in the context of beer, but I will talk about a rum drink and a whisky drink when I am winding up on this legislation so people would get a better understanding of how many drinks we are talking about. I hope that deals with your point. It was simply an illustration to answer a particular question from the Member for Caroni East.

Mr. Deputy Speaker, under the proposed legislation, section 70B, a constable would be empowered whether in uniform or not to submit a person to a breath test where the constable reasonably suspects:

- “(a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place...or;
- (c) has been driving, attempting to drive or been in charge of a motor vehicle...committed an offence...”

on the road or public place with alcohol on his breath in excess of the prescribed limit. So this will now empower a constable to cause a person to submit to a breath test if the constable is of the view that the person is drunk over the limit, or has committed an accident while under the influence, or whatever.

Mr. Sharma: Why out of uniform?

Hon. C. Imbert: I guess he will have to show his ID, but it means if an off-duty police officer, for example, carrying his police identification notices that somebody is driving dangerously; he will be able to deal with it immediately. The whole point about this legislation is that he wants a quick response to the situation.

Mr. Ramnath: So he would take him down to the police station?

Hon. C. Imbert: Yes, exactly. There may be an off duty police officer who notices somebody driving and swerving all over the road, he can arrest him and take him to the police station and let the breath analysis be performed there. A police officer not in uniform would not normally be carrying the breathalyser device. I do not know if that answers your question.

Mr. Ramnath: That would be police harassment of people.

Hon. C. Imbert: As I indicated, it would be a bit of a culture change.

Mr. Ramnath: Culture change? Culture shock!

Hon. C. Imbert: Yes, it would be a bit of a culture change for Trinidad and Tobago but we have to do this. If one goes through the statistics, there are over 100 road deaths every year and at least half of them are associated with young persons who have been drinking.

If you do an age profile on the road fatalities, there is a high percentage of teenagers, persons who have just received their driver's permit and gone to some fete somewhere, and not old or mature enough to understand the implications of drinking and driving. If an age profile is done, you will see the large number of persons involved. In fact, it is probably the number one cause of death in young people.

If you look at all the causative factors in the death of persons between the ages of 18 and 25, you will probably find that driving under the influence is the number one cause of death of persons in that age group because they are not going to die normally from a heart attack, or cancer or something like that, they will die from an accident and usually, it is something associated with drunk driving.

So, as I said, the constable will be empowered to require the person involved in an accident to provide a specimen of breath at the scene of the accident, or at a police station nearby. If the person is a patient at the hospital, he may be required to provide a specimen of breath only when the doctor in charge of the patient does not object to the test on medical grounds. The constable will also be empowered to arrest persons without warrant, if the person is found to have alcohol on his breath in excess of the prescribed limit. Someone cannot be arrested if he/she is a patient at a hospital and that is obvious. Someone who was in an accident and is now on a hospital bed, the constable cannot go into the hospital, arrest the person and drag him out of the hospital, and this is why there is the provision where the medical practitioner who is in charge of that patient must authorize the testing of a person's breath and so on.

2.00 p.m.

The legislation provides that a person who fails to undergo a breath test or whose tested breath is found to contain alcohol in excess of the prescribed limit would be required to submit to the breath analysis at a police station. If the person does not want to do it at the roadside, he or she would be taken to the station to do

it and if the person does not want to do it at the station, there would be penalties. The person could lose his or her licence; for a second offence his or her licence can be suspended for a period and for a third offence, the person can be disqualified from holding a driving permit. This is normal in the international arena and in the legislation.

Dr. Rafeeq: This legislation does not contain anything about that. For a person who fails to submit to a test there is only a fine of \$5,000. As a matter of fact, it will be in the interest of the person who is being accused not to submit to the test because there is only a fine of \$5,000 or imprisonment for six months. If he fails to submit to a test he has a fine of \$5,000 or imprisonment; if he submits to the test and is found guilty he has to pay \$5,000 and be disqualified for a period of time from holding a permit. It would be in the interest of the accused not to submit to the test.

Hon. C. Imbert: In legislation when it is a fine, or imprisonment, the magistrate can impose a custodial sentence. When you have that form of words in legislation, it is up to the discretion of the magistrate to impose the custodial sentence. In other words, the scenario that the hon. Member for Caroni Central has outlined that the person will not be incarcerated does not apply. I will be willing to make any adjustments to the legislation. *[Interruption]* I am not begging because the hon. Member for Siparia is aware that I have raised this matter with the hon. Member on several occasions. I have received an assurance from the Members opposite that they support the principle of the legislation. Am I not correct? *[Crosstalk]* Correct. In order to make this legislation as best as it can be I would—

Mr. Sharma: What provisions are there for the combination of medication and driving under the influence?

Hon. C. Imbert: At this point in time, we did not want to confuse the legislation—that is an important point—with the question of drugs because there is no proven device that can test for drugs at the roadside. Experimental testing is taking place right now in Australia in terms of a saliva test at the roadside to determine whether a person is under the influence of drugs. At this point in time, there is no proven instrument that is satisfactory in terms of taking a breath test or another type of test at the roadside, to determine whether or not you are under the influence of drugs.

This legislation deals with driving under the influence of alcohol. We thought that this would be a major advancement in the legislation. As the developed countries refine their testing apparatus for drugs in terms of this saliva test, we can come back and introduce that concept in this legislation. We had much

discussion on the matter. A multi-sectoral team looked at the legislation. We had much discussion on the question of whether we should also attempt to introduce an instrument that would test for drugs at the roadside. We felt that because of the premature state or infancy of that technology or the immature state of development of that technology, bearing in mind that we have never had anything like this in Trinidad and Tobago, we would stick with something that has been tried and tested over a number of years in the developed countries.

We are sticking with alcohol. This is what we are proposing. In this legislation we are not proposing to introduce testing for marijuana or any other drug that would impair your senses. As the technology and capability improve in terms of creating a device that could accurately measure the drugs on your breath or saliva, we would certainly come back to put that into the legislation. Based on research, we have picked up a significant proportion of persons who have been found to have a blood alcohol content or alcohol on their breath above the prescribed limit and have also been found to be under the influence of narcotics.

Let me move on. The legislation also deals with laboratory testing. A constable will require a person under investigation for dangerous driving or driving with blood alcohol levels in excess of the prescribed limit to provide a sample of blood for a laboratory test where the person is physically unable to provide a sample for breath testing. If the person is physically incapable of providing a breath sample the legislation would allow for a blood sample. There is an exception where in the opinion of a medical practitioner the taking of the sample would be prejudicial to the health and care of the person. In the Bill there are a number of other ancillary provisions dealing with the creation of regulations; the specification of laboratories; blood alcohol limits; training requirements; testing, certification of breath analysis equipment to be used and other related matters.

We have to calibrate the equipment because I expect people to challenge this legislation based on calibration of the instruments. The first thing that somebody would challenge is that the equipment is not calibrated and therefore, the reading on the equipment is inaccurate and he or she should not be prosecuted.

In order to deal with some of the sotto voce comments from the Member for Couva South, this Bill is not intended to outlaw drinking. It is in no way intended to outlaw the drinking of alcohol. It is intended to outlaw driving under the influence of alcohol because drinking in one's home—if you are on your own in your home. I am serious because some people may try to make a link between this legislation and a ban on alcohol and drinking. This is not intended to ban alcohol;

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this is intended to ban driving under the influence of alcohol. *[Interruption]* We did do that. I am sure that everybody in this Parliament will agree that drinking and driving causes great risk to drivers, passengers and pedestrians. I am sure that everybody will agree that it is something we have to do.

I would like to discuss how we go about doing this. This is the legislation before the House and I would go through the legislation clause by clause. Before we get to that I want to deal with this question of testing for drugs. Statistics coming from the USA indicate that a large number of drivers under the influence of alcohol are also under the influence of drugs. Breathalyzer tests cannot test for the presence of drugs in a person's system. Drug abuse is tested using blood or urine samples. In Australia, random saliva drug testing is done and the saliva testing that is being done at this time is designed to test for marijuana, speed and ecstasy. I must say that I know nothing about these drugs.

Hon. Member: And cocaine.

Hon. C. Imbert: I am not disputing that. I am saying that my information is that they are testing for marijuana, speed and ecstasy. If they are testing for cocaine, fine. The saliva test is done with a device at the roadside and it takes a couple of minutes. If the device gives a positive result the person is requested to undergo another saliva test. So obviously, that is a control mechanism. If the second test is also positive a sample would be sent to a laboratory for independent analysis and if that is positive the driver would be charged. There is no breath testing for drug use or driving under the influence of drugs available at this point in time. Because the testing for drugs is in its infancy at this time I did not see any rationale behind complicating the breathalyzer legislation with a saliva testing instrument. That is something that we can discuss as we go along.

Let me go into the legislation clause by clause. In its preamble the legislation indicates that we require a special majority, obviously, because we are dealing with people's rights. The first important part of the legislation is clause 5 which introduces the concept that:

- “(1) A person shall not drive or attempt to drive, or be in charge of a motor vehicle on a road or other public place if he has consumed alcohol in such a quantity that the proportion thereof in his breath or blood exceeds the prescribed limit.
- (2) Any person who contravenes subsection (1) is guilty of an offence...
 - (a) in the case of a first conviction, to a fine of five thousand dollars or to imprisonment for six months; and

- (b) in the case of a second... conviction, to a fine of ten thousand dollars or to imprisonment for twelve months.
- (3) A person convicted..., without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of twelve months from the date of the conviction for holding or obtaining a driving permit, and on a second conviction for a like offence, he shall be permanently disqualified for holding or obtaining a driving permit.”

Let me recap. The legislation provides that if you are caught driving under the influence of alcohol; if your breath is tested; if it is established that you are over the legal limits, whether your breath or blood; if you go through the process of a trial and you are convicted, in addition to the fine and potential of imprisonment, you would lose your permit for 12 months. If you are convicted twice you would be permanently disqualified from holding a driving permit. You must have two convictions.

Mr. Sharma: You can use a point system. That is too harsh.

Hon. C. Imbert: We can talk about this. As I said, I am open. By the way, this is straight out of the United Kingdom. For those of you who want to know where this came from this is almost a carbon copy of the British law, as it relates to driving under the influence. It is virtually a carbon copy; we almost lifted it out of the UK law. I will explain why we used the UK model instead of the American model.

Let me move on. Clause 5, new section 70B(1) states:

“Where a constable in uniform or on showing his authority...”

It is either you are in uniform or you have your ID.

“..has reasonable cause to suspect—

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his breath or blood exceeding the prescribed limit...
- (b) has been driving, attempting to drive he may,... require him to provide a specimen of breath for a breath test.”

This gives a constable the power—if he suspects that somebody is driving, or is in control of a motor vehicle and he is under the influence of alcohol over the prescribed limit, or has been driving with his alcohol level over the prescribed limit, or is going to drive with his alcohol limit over the prescribed limit—to require that person to provide a specimen of breath or a breath test.

This deals with a point made by the Member for Caroni Central.

“(2) No requirement may be made by virtue of paragraph (b) or (c) of subsection (1) unless it is made as soon as reasonably practicable after the commission of the offence.”

This is the power of the constable to call for the breath test. Of course, we have to deal with the medical issue that you brought up in terms of the absorptive capacity of alcohol of the body. That is in the case of suspicion. [*Crosstalk*] I am not just talking to you. “We live eh.”

Mr. Ramnath: “We on TV.”

Mr. Sharma: Thank you, Minister. As you indicated we are looking at the UK model. In the UK if a person drinks and thinks he is over the level required, he can obtain a lift to go home from the police. That person would not have to drive. What kind of provisions are you considering?

Hon. C. Imbert: We had not considered that. Now that you have raised it, that is a point that we can look at. I will look into the matter. Let us move on.

To answer you, Member for Siparia, whereas all hon. Members opposite have a copy of the Bill and have studied it in minute detail, the people that I am speaking to do not have a copy of the Bill. We are talking about public education. [*Crosstalk*]

Mr. Sharma: Put it on the Internet.

Hon. C. Imbert: Perhaps, we should post it on the Internet. I think I will put it on the ministry’s website, now that you have brought it up.

Hon. Member: Parliament’s website.

Hon. C. Imbert: It would be on Parliament’s website. You are absolutely right and I will put it on the ministry’s website as well, so persons can log on and get a copy of the legislation for themselves.

We have the situation where a constable who suspects that someone is under the influence can cause that person to take a breath test. [*Interruption*] That would be a point of challenge. The constable was not in a fit state to take the test.

We move on to the question of an accident.

“(3) Where an accident occurs involving a motor vehicle on a road, a constable in uniform or on showing his authority...may,... require any person whom he has reasonable cause to believe was driving or attempting to

drive the vehicle at the time of the accident, to provide a specimen of breath for a breath test either at or near the place where the requirement is made or, if the constable thinks fit, at a police station specified by him... in reasonable proximity to that place.”

If a police officer comes upon the scene of an accident and is of the view that the driver of one of the vehicles is drunk or over the legal limit, he can test him on the spot or cause him to go to a police station for a breath test to be taken. It now gives the police that power. It is not only if a person is driving erratically and a policeman suspects it. It is also if there is an accident. There are precautions to deal with the person having been in an accident and taken by ambulance. *[Interruption]* What can I say? There is a situation that would allow for if a person is at the hospital as a patient to give the breath specimen but only with the consent of the doctor. He has to be given prior notice.

New section 70B(5) states:

“A driver who, without reasonable excuse, fails to provide a specimen of breath...is guilty of an offence and shall be liable on conviction to a fine of five thousand dollars or to imprisonment for six months.”

That is the same as the other one. A person who contravenes subsection (1) is guilty of an offence and is liable in the case of a first conviction to a fine of five thousand dollars or imprisonment for six months. *[Interruption]* No problem. If you wish to propose that we could look at it.

Mr. Ramnath: We are not proposing losing your licence.

Hon. C. Imbert: I am waiting for the proposal. I have a very open mind. *[Interruption]* I ask the hon. Members opposite—I do not mind getting six different submissions from the Front Bench and four different submissions from the Opposition Back Bench. I prefer that you come to some kind of consensus. It does not really matter. I will consider all the proposals made by hon. Members opposite.

The legislation also gives the police the power to arrest without warrant, any person who is found to have a proportion of alcohol on their breath exceeding the prescribed limit, but they cannot arrest this person if he or she is a patient at a hospital. Again, where a person is required to give a specimen of breath and the constable has reasonable cause to suspect that the person has alcohol on his breath or in his blood and he fails to do so, the constable may arrest the person without a warrant, but not if he or she is a patient at a hospital. It goes on giving various scenarios.

To assist the Member for Siparia I would not read every clause. *[Interruption]* I think I would. I am giving the scenarios. The Bill gives various scenarios.

New section 70C.(1) says:

- “(a) any person required... to undergo a breath test fails to undergo that test;.. the constable may require that person to submit, in accordance with the directions of the constable, to a breath analysis.
- (2) The breath analysis...shall be carried out at a police station by a constable authorized in that behalf by the Minister responsible for national security.”

If the person refuses to take the test at the roadside, they can carry him down to the station to do the breath test.

Mr. Ramnath: You force him?

Hon. C. Imbert: They can arrest him. This is why this legislation requires a special majority. We are dealing with a very dangerous thing. A motor vehicle is a weapon in the hands of a drunken person. If somebody is weaving and bobbing all over the road, crashes into a group of pedestrians and refuses to take a breath test although the person appears to be drunk, I think that we should give the police the power to arrest that person; take him or her to the station and make him or her subject himself or herself to a breath analysis. The legislation continues to outline various scenarios. It talks about what happens to somebody in a hospital. You must have the consent of the doctor who is in charge of the patient. You do not want to do anything that would affect the health of a patient at the hospital. It would give the person certain rights in terms of whether he or she is a patient at a hospital.

Mr. Singh: For the purpose of clarity, could you look at clause 5 with this concept of being in charge of a motor vehicle? What do you mean by “being in charge of a motor vehicle”?

Hon. C. Imbert: Could you direct me to which clause?

Mr. Singh: Clause 5 new section 70A.(1), “Driving or being in charge of vehicle while blood alcohol levels exceed prescribed limit.” If you read that clause it gives rise to certain concerns having regard to the scenario that may emerge.

Hon. C. Imbert: That goes to the person in control of the motor vehicle. The person is not driving the motor vehicle. In other words, the person is sitting in the car behind the wheel, engine running, but is not driving. The person is in charge

of the motor vehicle. If you want to tighten that definition I have no problem with that. The person has control of the motor vehicle; the person is not a passenger in the back seat. Does that answer your question?

Mr. Sharma: What I understand by control of the vehicle is that the police stops and the guy comes out from the car. Can the police arrest him? Is that what control means?

Hon. C. Imbert: You have to look at the concept of the legislation, if they think that you have been driving the vehicle under the influence.

Mrs. Persad-Bissessar: “In charge of” is already in the legislation. It is copied from the old UK Act of 1960. It is still in the present UK Act. It means in charge of for the purposes of driving. For example, when your driver is driving you and you are drunk in the back seat or front seat, you are not in charge of the vehicle. You may be the owner but you are not in charge. It is a term of art in the law which means that you are in charge for the purpose of driving. It would not catch the person who is not actually driving the vehicle or intending to drive the vehicle. The law defines it quite clearly.

Hon. C. Imbert: That goes back to the concept of control; the person who is actually in control of the vehicle for the purpose of driving. You can take it from the English meaning. It means that if you are in the car, you are driving and you are drunk, you in trouble. [*Interruption*]

Mr. Manning: They did not say that.

Hon. C. Imbert: Let us look at the next clause. The next scenario is that a person may be required to submit to a breath test at the person’s usual place of abode if the constable has reasonable cause to believe that the person was involved in an accident on a road. Member for Caroni Central, this goes specifically to the point you made. Clause 5, new section 70C(4) states:

“...a person may be required to submit to a breath test at that person’s usual place of abode—

- (a) if the constable has reasonable cause to believe that—
 - (i) the person was involved in an accident on a road or other public place within the preceding two hours resulting in death or serious injury; and
 - (ii) at the time when the accident occurred the person had an alcohol level in his breath exceeding the prescribed limit;”

They have put in the two-hour time frame but I will definitely look at the medical learning to see the absorptive capacity of a human being, in terms of how quickly the alcohol goes into his system and how long after someone has a drink you can reasonably test them for alcohol.

It goes on to say that in this scenario:

“if it was not feasible for a constable to require the person to submit to a breath test at the scene of the accident.”

There was an accident; the constable suspects that the person involved in the accident who has caused death or serious injury, the driver of the vehicle was under the influence of alcohol and his blood alcohol or breath alcohol level was over the prescribed limit and it was not feasible for the constable to test him at the scene of the accident, probably because the constable may have arrived afterwards, or the man may be speeding away when the constable is coming to the scene, he can test him at his home. He has a two-hour window to test the person at his home. It goes on to the penalties that would occur if the person fails to give the breath test in accordance with this scenario. It is a fine and imprisonment and it increases in the case of a second or subsequent conviction.

2.30 p.m.

In order to preserve people's rights—I am going to page 13—

- “70C. (7) As soon as practicable after a person has submitted to a breath analysis, the constable operating the breath analyzing instrument shall deliver to that person, a statement in writing signed by that constable specifying—
- (a) the concentration of alcohol determined by the analysis to be present in that person’s breath and expressed in microgrammes of alcohol in one hundred millilitres of breath; and
 - (b) the time of day and the day on which the breath analysis was completed.”

In order to protect persons, if you have been subjected to a test, the constable is required to give it to you as soon as practicable, and after the test has been administered he must give you a statement telling you on this day you were found to have this particular breath alcohol level. This is for your records, if you intend to challenge, this is to preserve your rights. The rest of this section deals with the question of giving evidence and how you give evidence and so on.

In order to give further protection, every constable who operates a breath analyzing instrument has to have a certificate of authorization from the Ministry of National Security that he is authorized to use the instrument. This is to prevent an untrained constable from taking a breath test and thereby incriminating someone because the police did not take the test in the prescribed manner. *[Interruption]* The person has to be certified by the Minister of National Security. *[Interruption]* Any police officer can be certified but in order to actually do the test the person must be certified by the Minister of National Security to operate the instrument. The Minister also has to certify that the instrument being used is the correct equipment. He also has to certify that the analysis was carried out in the prescribed manner. *[Interruption]* Yes, in order to make a conviction. *[Interruption]* Well, it says the Minister.

The legislation goes on to speak about a situation where a constable may request someone to take a blood test in addition to the breath test, just to be doubly sure. It gives certain protection to the person in terms of protection of their rights and it goes on to indicate what will happen if a person refuses to give the necessary breath or blood sample.

It goes into provisions governing the taking of a blood sample and requires that a medical practitioner has to certify how he took the blood sample and the conditions under which he took the blood sample. They have to serve a certificate on the accused person giving him full details of the test: how it was taken; by whom; under what circumstances; which lab tested the blood, et cetera.

At the end of the legislation we have the interpretation clause which describes various things:

“‘authorized analyst’ means a person designated as such by the Minister by Order...;

‘breath analysis’ means the quantitative measuring of the proportion of alcohol in a person’s breath,...;

‘breath test’ means a test for the purpose of obtaining an indication of the proportion of alcohol in the person’s breath carried out by means of a device...;

‘constable’ means a member of the Police Service;”

A hospital is any medical institution. As I said before:

“‘the prescribed limit’ ...

- (a) breath alcohol concentration, thirty-five microgrammes of alcohol in one hundred millilitres of breath...;
- (b) blood alcohol concentration, eighty milligrammes of alcohol in one hundred millilitres of blood,..."

Before I close, Mr. Deputy Speaker, I just want to give you some indication of the differences between the legislation in the United States and the legislation in the United Kingdom. All 50 states in the United States have enacted what is known as an implied consent law. These laws provide that any person who has a licence to operate a motor vehicle, a driver's permit, and operates this motor vehicle on any public highway has implicitly consented to a chemical test of his or her blood, breath, urine or saliva to determine the alcohol content of his or her blood; as I have said, that is the United States law. From the time you get a driver's permit, you have agreed that you will subject yourself to testing.

Police officers must have reasonable grounds to suspect, however, that you are intoxicated; it cannot be just a "vaps" thing. They cannot just come upon you—you are perfectly sober; you are sitting in a parked car—and hold you like that. They must have reasonable grounds; in other words, if you were driving erratically or something like that.

In the UK, however, there is no equivalent to this concept. In the UK, drivers suspected of driving under the influence may be required to provide breath specimens. In the United States from the time you get your licence you have agreed that you will give a specimen once it is requested of you. In England the law is different; it allows a constable to ask you to give a specimen of your breath. Persons who fail to provide this specimen in the United Kingdom are guilty of an offence.

Mr. Deputy Speaker, we have followed the UK model. The reason we did that is because our system of jurisprudence is more or less based on the English system. There have been refinements, modifications and we have introduced legislation from other territories: New Zealand, Australia, Canada and so on, but, by and large, our legislation is modeled after the British legislation and the parent Act, the Motor Vehicles and Road Traffic Act, comes straight out of the UK. The reason we felt that we would go with the UK model is that there are a lot of case laws on it. There is a plethora of decisions on what constitutes driving under the influence and therefore we felt that if we more or less adopted the UK model, we would have the benefit of a lot of judicial reasoning and thought on this matter which has taken place over the many years that this has been in existence in the United Kingdom and that is basically it.

As I said, the Bill requires a special majority but we do believe that this is required at this point in time. As I indicated in my opening statement, this legislation was proposed by the Opposition, and we thank them for that. As I indicated as well, the Leader of the Opposition and others Members opposite have indicated that they have no objection to the principles outlined in this legislation. I would, therefore, welcome any suggestions or proposals from Members on the other side in order to enhance this legislation so we can get it on the book as quickly as possibly.

Thank you, Mr. Deputy Speaker. [*Desk thumping*]

Question proposed.

Mrs. Kamla Persad-Bissessar (*Siparia*): Mr. Deputy Speaker, this Friday in the Parliament has brought us some surprising changes—perhaps maybe not so surprising—when we see the Member for Diego Martin East at his most gracious, soft, humble—in total opposite to his normal stance in and outside of the Parliament.

Mr. Ramnath: Belligerent.

Mrs. K. Persad-Bissessar: Belligerent and arrogant. We did not hear any of his words that we normally hear, words like: nonsense, rubbish and arrant. I trust that we will not hear them at the end of the debate.

Mr. Ramnath: He is now born again. [*Laughter*]

Mrs. K. Persad-Bissessar: Mr. Deputy Speaker, as we join this debate on this very important piece of legislation, I will take a few minutes to put it into context. The Minister did point out that when we met for the discussions on the anti-crime package of legislation that we had proposed then to the hon. Prime Minister and his team that legislation be brought at the earliest opportunity to deal with driving under the influence. This, as the hon. Minister has admitted today, is as a result, of course, of our request but, certainly, coming out from the general public as well, the concern for persons driving under the influence of alcohol and the carnage that we were experiencing on the roads.

However, Mr. Deputy Speaker, I also want to record—that is why I have said that the Minister's normal stance of arrogance—and to remind the hon. Minister, because he went in the public domain on two occasions to say that they had sent this Bill to the Opposition for consultation and that the Opposition had failed; the Opposition was failing and it was the Opposition's fault that the legislation had not come to the Parliament.

My reply then was as it is now, Mr. Deputy Speaker, that we do not invite ourselves to the consultations. The package of legislation was sent, as was the first package and the Prime Minister invites us to come when they are ready. On the first occasion when the Minister was there in the public domain he defended himself, I guess, and his officers for not preparing it on time. When he made the first statement it was the Opposition's fault and the Leader of the Opposition was holding back the legislation and so on, I said that we were ready and you can bring it.

Mr. Deputy Speaker, having brought it, all the hon. Member is saying now is: when I return, when I return, when I return. You took over a year to bring the legislation and when you bring it, as you stand, you are acknowledging that it is flawed. You are acknowledging when you return—in response to questions raised, I think by the Member for Caroni East and others—I will give you the full spectrum for puncheon, whisky and so on; when I return I will give you further information about “X” or “Y”. He comes, with due respect, not prepared to deal with this very serious piece of legislation. Mr. Deputy Speaker, not being prepared is a reflection of the piece of legislation that we have asked for, but which has come to us seriously flawed in many respects.

Mr. Deputy Speaker, we support this legislation, in principle—because we called for this legislation; we were concerned, as I said, with the carnage on the roads—but there is no way that we can support it in its present form. I will point to the hon. Minister some of the areas of concern.

The very first clause of substance abuse—let me use the words. He said: “The first important part of this Bill is in clause 5.” Clause 5 creates the offence. Mr. Deputy Speaker, before we go to clause 5 and obviously clause 4 comes before 5. Clause 4 is the most important clause because in clause 4 you are repealing section 70 of the Act. It is instructive to see what we are removing from the legislation before we talk about what we are inserting into the legislation and that is what clause 5 and thereafter is all about. In clause 4 we repeal section 70 and this is what section 70 of the Motor Vehicles and Road Traffic Act, Chap 48:50, says:

- (1) “Any person who, when driving or attempting to drive or when in charge of a motor vehicle on a road,...

Which is identical to the present one.

“is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, is liable on first

conviction to a fine of two thousand dollars and to imprisonment for six months and on any subsequent conviction to a fine of four thousand dollars and to imprisonment for twelve months.”

Mr. Deputy Speaker, it is identical, apart from the penalties have now been increased and so on, but what is most important is that when you say that you have brought a major advancement in the legislation, it is my respectful view that you have gone backward because you have removed the words: “driving on the road...under the influence of drink or a drug.” What was in our law that you could not drive under the influence of drug; you have now completely removed it. You are saying that you felt it important to bring for alcohol because, yes, we have all these problems with alcohol but then why did you remove that which was already in the law. Why are we going piecemeal when you could have done it at the same time? We will be proposing those amendments to you that when you go to clause 5 to create the offences that you do not take out the words: “under the influence of drink or a drug”. You need to have that contained within the law.

The hon. Prime Minister and the Government are on record, and all of us are aware about the war against drugs. Mr. Manning called on Wednesday 06, 2006:

“PRIME MINISTER Patrick Manning yesterday called on the US government to step up to the plate and do more to arrest drug transshipment through the Caribbean region.”

We know that the war against drug is a serious issue in this country, therefore why are we removing from our law “...persons who are driving under the influence of a drug”?

Whilst you want to deal with the alcohol issue which was already there, and I agree with you, given the way the law was framed that it was very difficult for officers to prove the offence had been committed. One needed to have done a scientific and objective testing measure versus subjective testing—subjective being the officer just thinks that the man was drunk. He does not necessarily have to be drunk so when he got to court all those things went and all those cases were thrown out. As I said, I agree on that point, but it is the same for drugs but you have removed the drugs and therefore persons could now drive around in this country under the influence of a drug, which was illegal before in the existing law. That is the first flaw in the legislation, in my view, therefore I ask that when we are at the committee stage that we keep “driving under the influence of a drug” as being illegal in Trinidad and Tobago.

Secondly, Mr. Speaker, we are talking about breath testing and only breath testing. This is outdated now. In this legislation, which we took so long to bring, we can very easily include within it “all bodily fluids” so you can have testing of saliva and urine. You already have blood and breath testing in here so why are you ruling out the others?

Mr. Imbert: Are you proposing that we look at the testing of other bodily fluids in addition to breath?

Mrs. K. Persad-Bissessar: That is what I am certainly doing. Indeed, Mr. Deputy Speaker, I have here an instrument that somebody brought me, this is for urine testing. This is a strip that tests for five things. It tests for the most commonly used drugs: amphetamines, opiates, cocaine, marijuana and alcohol. With one strip you can get all five tests done but this is a urine test. So if you do the law this way already you are not going to be able to pick up urine. There is a very simple test available for saliva that can also be used at the point. You can do this on the roadside; in a public place.

This is a saliva test for alcohol which comes in a nice disposable packet. Of course for the breath scan itself you have these disposables. *[Interruption]* Strangely enough, Mr. Deputy Speaker, when these Bills were passed to us for discussions with the Prime Minister and his team, we went out for consultations and in the consultations people brought things for us and discussed with us why it is that the Bill was dealing with only one type of testing; why we were leaving out the drugs and, of course, why we were only doing testing for breath and not saliva.

This one is just a straight breath test. The person blows into one of these; it is disposable, and the colour changes. It tells you that there is alcohol on the breath but it does not tell you the amount. This machine—*[Member indicates by raising an object]*—gives an instant digital readout. This is a disposable kit; the officer could have this with him. This gives you an analysis and this is also a portable instrument. There are several of them—*[Interruption]*—Well, I do not think we manufacture these here but they will be available, if we want to import them, in the same way we are importing everything else we eat. And then if we want to set up a manufacturing plant, we can manufacture them. They are very simple and they are relatively cheap.

My first concern was the fact that you have left out the drug testing. There is a system called the: LifePoint IMPACT Test System—I showed you the urine test for the five tests for drugs, alcohol plus the other four—which tests the saliva. It does this simultaneously and it will detect, as I have said, alcohol, cocaine, opiates

amphetamines and marijuana at the same time and it would give a printout within five minutes. The specimen of saliva is taken and the printout is done in five minutes.

The system is a small portable computer terminal similar to this one—[*The Member indicates by raising an object*]—a fully disposable test cassette. The cassette serves as a collection device and then you get the reaction and re-chamber. You take the saliva by aspiration, it is a similar device—perhaps Dr. Adesh could tell us—as is used in a dental office, and the collection process is one minute. The instrument then generates hardcopy results and all of this takes about five minutes.

Mr. Deputy Speaker, why am I advocating that we include in this legislation, apart from breath testing that we do other fluids: saliva, urine, we already have blood, is because we have serious concerns and a body of lawyers and case laws have been built up with the problems that are associated with breath testing, especially in the United States because they have had this breathalyzer for a long time.

My colleague on my right, the Member for Caroni Central, gave me the words: “false positives”. There are things with the breath testing that would give you false positives, that is to say, that you would come up positive for alcohol but in fact it was not alcohol at all. I think Listerine; a common mouth wash is one of those things that you could end up into problems with. What happens with the breath testing is that it does not necessarily come from the lung. You would get the breath from the mouth and you might have had Listerine which would remain in your mouth, which is a simple example.

There are several problems with breath testing alone. From the research it is said that the breath testers could be very sensitive to temperature, which again may give you false positives or negatives. Breathing patterns could affect the blood test results; medication will affect the breath test; cough syrups. It is said that one of the major problems from the research they are putting out is that the breathalyzer is non-specific because the machine not only identifies ethyl alcohol or ethanol found in alcoholic beverages, but it also picks subjects which are similar in molecular structure as the alcohol for which you are testing. Again you may end up with a test; a person could lose his licence and so on, when it had nothing to do with these levels of alcohol in the blood.

Mr. Deputy Speaker, there are serious problems. The US National Highway Traffic and Safety Administration has found that dieters and diabetics can have acid tone levels hundreds and even thousands of times higher than those in other

persons. This is due to the non-specificity that I mentioned. Acid is one of the many substances that I mentioned that can be falsely identified as ethyl alcohol by some of the breath machines.

If it is that we are going full speed ahead with this, have you identified the type of machines you are using? Do we have any research? There are so many of them out there. A breathalyzer has become like the word Colgate which stands for toothpaste. Breathalyzer is, in fact, a brand name, as you may well know; it has now changed to another brand. It is like a generic name; it is like Xerox and so on.

Mr. Imbert: I thank the Member for giving way. The specifications for the breathalyzer instruments will be in the regulations. It would be wrong of me to choose a particular brand. We are just going to specify the performance parameters for the instruments and then they would have to be certified as meeting those performance parameters.

Mrs. K. Persad-Bissessar: I thank you for your response but it gets me more concern, because that is the other issue when you talked about preparation after a year. We do not even have sight of these regulations. We do not know what is going to be put into these regulations. It is important for us to know if you are now telling me—I agree with you that you will not identify a brand name; you will identify the parameters that you have and so on for the standards that these machines should have.

Mr. Imbert: Sorry to interrupt you again but the legislation cannot become effective until the regulations are made law specifying the specifications for the instruments. We will pass the parent legislation but the breathalyzer cannot go into effect until the House approves the specifications for the instruments, which is the next stage.

Hon. Member: Do we need a special majority for regulations?

Mrs. K. Persad-Bissessar: No, we do not need a special majority for regulations. Mr. Deputy Speaker, when we did the constitutional change with respect to the Police Reform Bills, in our consultations we said we want to see the regulations. We are not going to support this Bill without seeing the regulations. The regulations are really the flesh. The Bill itself is just the bone, the structure, the framework and how this thing is going to work will be according to the regulations. We need to see those because you are asking for our votes on this—special votes—so we could now ask you to do things for us as well in the interest of the country.

If you took so long to draft the Bill and to bring it and you do not have the regulations to go with it—do you know the expression: “You are buying cat in bag”, we would be giving our special votes to this Bill without knowing what the regulations will have in them. With ordinary legislation it is not so vital because many times you come within parent legislation and you bring the regulations thereafter. Whilst it is important, it is not as vital as when we are going to be interfering with people's fundamental rights—this is why the constitutional majority is needed. Therefore, we need to see those regulations; we need to see how this is going to work; we need to see how the specifications are so that we can be comfortable that whatever we put into the framework, which is this Bill, that it will be fleshed out in the regulations and that it can work. Mr. Deputy Speaker, I am saying that there are a lot of things that could happen with breath testing and therefore we must not confine ourselves only to breath testing.

I have talked about the LifePoint IMPACT Test System, Mr. Deputy Speaker. There is precedent in our jurisdiction, this LifePoint IMPACT Test System is being used in California but in our common law jurisdictions from which we take our jurisprudence, in the United Kingdom and in Australia there is legislation that makes for drug testing for the other drugs as well as alcohol. In the United Kingdom Act, the Railways and Transport Safety Act, which came into force in November 2003, section 107 of that Act gives a constable power to conduct preliminary tests if the constable reasonably suspects a person is driving or attempting to drive, or is in charge of a motor vehicle on a road or other public place and has alcohol or a drug in his body or under the influence of a drug, which I have asked you to include.

It also provides that the person who has been driving or attempting to drive or is in charge of a vehicle on a road, a public place, while having alcohol or a drug in his body, while unfit to drive because of a drug, still has alcohol or a drug in his body or is still under the influence of a drug, that the person has committed a traffic offence while the vehicle was in motion, and if a constable reasonably believes that the person driving, attempting to drive, in charge of the vehicle at the time of the accident there are three preliminary tests that are built into the UK legislation.

The preliminary breath test, which is what you are saying that we do a blow into one of these, you have the preliminary breath test, then that gives you a sort of observation; you could do a preliminary impairment test. If it is that you do not want to go into the higher end with the five tests all at one time, you can do, what happens in the United States as well, the preliminary observation for impairment.

Those are very simple tests where you get persons to do physical things; walk a straight line, stand—there are about five things that the officers in these jurisdictions would ask the person to perform. Based on that preliminary test then you would administer your breath. Then you could go further for a drug test which will involve obtaining a specimen of sweat or saliva, and then taking that specimen for the purpose of getting an indication of whether the person has a drug in his body.

3.00 p.m.

This is in the United Kingdom. Our whole common-law tradition is UK based, so that we will not be going into a foreign jurisdiction if we want to ensure that we include drugs, and we can look at those. I am asking the Minister to look at those to amend the Bill to include those. In Australia as well, the Road Safety Drug Act was introduced in December 2003, with amendments up to May 2006, so they have been working on it as was said.

This also gives the police officer the power to perform roadside oral fluid tests, saliva for cannabis, the methamphetamine, the ecstasy and so on. The police officer may require oral fluid samples from drivers of motor vehicles for the purpose of preliminary testing.

Under section 55D a person is eligible for such testing if he or she is:

found driving or in charge of a motor vehicle.

- the driver of a motor vehicle has been required to stop at a preliminary testing station.
- believed on reasonable grounds to have driven or been in the preceding three hours of a vehicle that has been involved in an accident, or
- believed on reasonable grounds to have been in the preceding three hours, an occupant...

This is a very interesting provision that we may want to consider—

“of a motor vehicle that has been involved in an accident, and it has not been satisfactorily established which of the occupants of the motor vehicle was the driver.”

So that once you are an occupant and there was an accident and you cannot determine which one of them, you will still be subject to testing. Both of these Acts are very comprehensive. The aim is to protect the public from harm that comes from motorists who drive under the influence of alcohol or of drugs and,

therefore, we strongly urge the Minister to look further at these two pieces of legislation. It may well be that it was not fully brought to the Minister's attention or to the drafter's attention or, maybe, it came too late and, therefore, you would need to look at it.

The legislation itself or the framing of it, this legislation is purely punitive. No rehabilitation whatsoever, two strikes and you are out. Look at clause 5. It establishes the offences, it creates the offences and then the penalties but there is nothing about rehabilitation, education or otherwise. In all the countries where you have these similar provisions, they provide for some kind of rehabilitation and education so if you have—as you mentioned a lot of these offenders are young drivers, some kind of rehabilitation process must be there and, therefore, looking at the penalties and in considering whether on two strikes you would lose your driver's licence for the rest of your life, whether that is the way to go or whether there can be rehabilitation periods after which a person can re-apply. This is exceedingly draconian.

We are not saying that we do not support legislation to prevent the carnage on the roads, but we must give people a chance to rehabilitate themselves. And we have seen programmes in other countries where that can be done. So for the first time they test you for this thing and you are found guilty the legislation provides a disqualification for a period of 12 months in addition to the fine and imprisonment and so forth. What happens in that 12 months? At the end of those 12 months you come back, you get your licence and end of story, or should there not be within that 12-month period, as I said before, some period of education and rehabilitation so that when you get the licence back the chances of going into a second offence will not be there or will be ameliorated, will lessen. I ask you to look at that in terms of rehabilitation.

Then when you come to the second conviction, you are found with blood alcohol levels above the prescribed limit and you lose your licence forever. You are 19 years old, young and maybe, misguided and so forth, it means for the rest of your life from 19 years old to age, if you are lucky like some of us, 73 years, and if you are lucky like the hon. Prime Minister, maybe 85 years, you will never get a driver's licence again in this country. I am saying that is too punitive, it is too draconian and there should be gradations and possibilities of rehabilitation to get the licence.

We may also consider, for example, that before you get back the licence you ought to take some kind of test. So you have lost your licence for a year, but before I re-issue that licence to you, you should take a test and that test may

include the very said things: driving under the influence, a written test like a regulation—but it is education. You have gone through rehabilitation, evidence that there has been some rehabilitation so you do not just, well okay, you lost it for a year and you come back and get it and start all over again; some way to rehabilitate and then some kind of examination at the end of that.

Mr. Deputy-Speaker, the point that was raised by the Member for Caroni Central is exceedingly vital and valid. I do not think the hon. Minister fully grasped the point the Member was making, and that has to do with new section 70B. That has to do with the refusal. A stronger deterrent is needed for refusal. The point that was being made is that you have created an offence for refusing to take the test, so the person refused to take the test, the penalty is either imprisonment and or fine but no disqualification. Why would a person refuse to take a test? If the person is not under the influence he has nothing to lose by taking a breath test. He would gladly take the breath test. It is the person who is most likely guilty who will not take the test, who will refuse to take the test and what you are doing is telling him okay, I might jail you or you pay the \$5,000 fine.

The man who takes the test and fails the test, his licence is taken away for a year. It is worse for the person who is agreeing to do it. If a man knows he is guilty and refuses the test, he pays up the money and keeps his licence. He is not caught by the second conviction because he now becomes a second refusal but a second refusal still does not disqualify him so the man who continues to refuse all the time will forever retain his licence, and the person who refuses is the person who is most likely the guilty person because he is afraid to take the test, it will show him up.

We want to seriously change that, and I suggest that you put the same penalties, if not a stronger penalty; whatever it is we decide at the end of the day because I am saying we will have to re-look those penalties to see how we can gradate them in some way. Whatever penalty we put for the actual guilty we should have either equal for refusal or even greater penalty for refusal, because that is the man who surely has something to hide.

There is clause 5 new section 70B(7) which deals with the whole issue of suspicion of having committed an offence. Suspicion now, this is the scientific, this is the objective, these tests and so forth, but suspicion; a constable has a reasonable suspicion of an offence committed, which is what was in the law in the past, it is a subjective test. But in the United States, they do have what they call standardized tests for sobriety so that you may not want to spend the \$200, you

may go through these preliminaries that do not have a cost apart from the officer's time, and these roadside sobriety tests are probably used by police officers in driving under the influence investigations to determine whether a driver is under the influence. They consist of a battery of three to five exercises such as walk and turn, one leg stand, follow the pencil with your eyes, finger to nose, reciting the alphabet, eyes closed position of attention and so forth. The officer then subjectively decides look, this looks really suspicious and then he may want to give some of the other tests that we talked about, whether it is the breathalyzer or the saliva and the others we have talked about.

It is common that many of these cases are heavily contested in the courts based on purely observations as you will know from your distinguished practice in the law. There have been many cases that were thrown out because you could not prove them based on the subjective things. But these can serve as a preliminary test so that you save cost, to some extent. It is not like every man you fine, you subject him to a breath test as the first line of attack or enquiry.

I have a question. Think of one of these either in a massive chutney jam or massive soca jam, Carnival and you have 30,000/40,000 persons coming out of a venue, or 10,000 coming out of a venue and we all know what they were doing in there apart from singing and dancing and so forth. Many of them would have been there for the whole night. What do we do? Do we line up like 1,000 police officers along the roadway? I am asking about the logistics of it. Do you line them up and everybody—this is not your fault—it is a serious logistics question if we really want to deal with this problem. How are we going to deploy manpower? Where are we going to get that manpower? Therefore if we do random but we know what is happening when these fetes are over what is coming out of there? Somebody was doing an analysis on the road facilities and accidents and it shows that during the months of December to February there is the highest number of road accidents and we know why; Christmas into Carnival; all the fetes and inclusive fetes and so on in January. So logistically have we given thought to that?

I know that you cannot presume the legislation is going to be passed and that is why you said you could not chose a brand name for the test and so forth, but logistically its implementation and I remind you that when we came to this Parliament over a year ago, we gave our special majority votes for the police reform legislation, passed over a year ago. I had then asked the Prime Minister to establish an implementation committee because there was no way that was going to happen leaving it in the CPC's hand, leaving it in the Ministry of National Security, that there is so much to be done that an implementation committee

should be set up. I do not know if it was, I never heard it was but for sure up to today police reform bills and big anti-crime package are still not in place.

Hon. Minister, I caution you to not let this be another piece of legislation, that is good legislation that is passed that ends up on the books and never implemented. One, you already have a problem, there are no regulations so that is going to hold you up. We have legislation in this country where years later the regulations have not come. Secondly, it is the implementation. Training and education for the police officer is vital if this is to succeed because the police must know—we were talking—saying in charge of a vehicle. Does the police officer on the beat, on the road know what in charge of means? That you own the vehicle and, therefore, you are arrested and subjected even though you are not driving it; so you will need serious, not just public education, but for the law enforcement officer to have serious training taking place.

Mr. Deputy Speaker, I had the problem also with the wording and I ask for clarification, when we come to taking the testing at the person's usual place of abode and in looking at new section 70C (3):

“A constable shall not require any person to undergo a breath test or to submit to a breath analysis—

(c) at that person's usual place of abode.”

There is a term of art in law, the usual place of abode means your home, your residence, where you are living. Some people have several places of abode like my good friend from Diego Martin Central, perhaps—I do not know for a fact, I am asking maybe, the Member for San Fernando East. [*Crosstalk*]

Usual place of abode means your home. And then we come later on in that same new section (4) where it says:

“Notwithstanding subsection (3), a person may be required to submit to a breath test at the person's usual place of abode—”

And then you gave the circumstances.

Mr. Imbert: That particular part of the legislation refers to the specific case where the constable has reasonable cause to believe the person was involved in an accident resulting in death or serious injuries. It distinguishes between a policeman going to a person's home just so and the situation where an accident had occurred.

Mrs. K. Persad-Bissessar: Thank you for the clarification, but then I still have a concern. What about if he is not at his usual place of abode but he was involved in the accident? So you would want to have that. He is not in his usual

place of abode, he is in another abode, so even though you knew he was involved in an accident you cannot take the thing at home and after a couple hours as we know it passes through his blood stream and you would no longer be able to pick it up. It cannot be just at his usual place of abode, it should also be wherever you find him.

The general provision is usual place of abode which is his home but he may go to his sister's house or his brother's house or his grandmother's house and, therefore, you will not be able to run the tests within the time given. Or, you may want to look at that. There are other issues and my colleagues will deal with them of course. The major one was the issue of leaving out the issue of drug testing and leaving out other bodily fluids, but there is another issue I want to include since we are talking about the Motor Vehicles and Road Traffic (Amdt.) Bill, Chap. 48:50. Part II of that legislation deals with registration of motor vehicles and section 12 says:

- “(1) No person shall, in any place, use or keep for use or, being the owner, permit any other person to use or keep for use any motor vehicle not being a vehicle exempted from registration under this Act, unless it is registered under this Act and has affixed thereto in the prescribed manner the prescribed identification mark.
- (2) No person shall be liable to a penalty for a breach of this section if he proves that he has taken all reasonable steps to comply with its requirements, and, when the vehicle is in use on a road, that it is on its way for the purpose of being registered.
- (3) The Automotive Licensing Officer to whom application is made shall, upon being satisfied with the provisions of this Act, the Motor Vehicles Insurance (Third-Party Risks) Act and Regulations respectively made thereunder, have been complied with, forthwith enter particulars of the vehicle...a registered letter or letters and number, which shall become the identification mark of such vehicle.”

Subsection (5) says:

“If a motor vehicle does not bear on it an identification mark as provided by this section this fact shall be regarded as *prima face* evidence...(it is not)...registered, and any constable may detain such a vehicle until enquiries have been made.”

Mr. Deputy Speaker, section 16 of this Act provides that the vehicles that shall be exempted from the need for registration of the bearing of identification marks as

prescribed in the law will be new motor vehicles in the possession of the manufacturers or dealers, but subject to provisions as to general dealer's licence that is, when you have demonstration plates on the cars, private cars and motor cycles brought into Trinidad and Tobago by visitors for their own use for a period not exceeding three months. So you brought it from that first three months to give you time to register so you are exempt from having the identification mark. And 16 (1)(c) says:

“any motor vehicle the property of or used by the President for his official or personal duties.”

They are exempt from the regular identification marks.

Mr. Deputy Speaker, we look at the Regulations and the Regulations provide that:

“Letters and numbers as prescribed in the Second Schedule painted on or otherwise fixed to the motor vehicle or trailer, may be used instead of plates.”

And then they show us what the identification marks should look like. And we know what these are. You will have the private car and the number. These are the identification marks as provided for within the law. [*Copy of document shown*]

Mr. Deputy Speaker, in an article carried in the *Newsday* and this was some time last year, Saturday, March 04, 2006:

“It's the National Coat of Arms for his official car

Prime Minister Partrick Manning has broken tradition by using on his official car, the national coat of arms, a symbol which in the past has been utilised exclusively by the official Presidential vehicles.

The Prime Minister's principal car no longer carries the PM 1 registration number, although the fleet of vehicles maintained for Prime Minister, still contain cars bearing the PM 1 series.

One car however—a Mercedes Benz 500—which used to bear the registration number PBM 1 is now adorned by the Coat of Arms. It is now used exclusively by the Prime Minister.

Throughout Trinidad and Tobago's history the Coat of Arms has been used by the Head of State—first the Governor-General and subsequently the President. This convention was handed down by the British whose Sovereign uses the Royal Coat of Arms. In fact, in the United Kingdom, one of the main functions of the Royal Coat of Arms is to identify the person who is Head of State.

Newsday understands that since last July the Prime Minister has been using the Benz with the Coat of Arms...”

on the vehicle. Mr. Deputy Speaker, this is very clear. The Coat of Arms; there is no identification plate.

The *Newsday* article says it is in breach of tradition. It is not a tradition, it is in breach of the law of Trinidad and Tobago. [*Desk thumping*]

While it is under the National Emblems Act a person can get permission to use the Coat of Arms and who gives the permission? The Minister of National Security, so it is really himself to himself. You can use the Coat of Arms. There is a committee set up under the National Emblems Act, Chap. 19:04 which says:

“(2) Section 4 of the Act provides that the Minister who is assigned responsibility for National Emblems,...may appoint a Committee to advise him in relation to, inter alia, the grant and refusal of licences for the use and display of the Coat of Arms.

(3) Section 5 of the Act states that a person must apply in writing to the Minister for a licence to use the Coat of Arms in accordance with that section. Section 5(1) provides that a person may—

‘(a) ...use or display the Coat of Arms in connection with business, trade, profession or calling...”

They may:

“(b) ...sell or offer for sale any articles, good or things which represent or on which is reproduced or represented the Coat of Arms.

(4) Section 6 of the Act provides that any person who does not possess a valid and subsisting licence to use or display the Coat of Arms in accordance with section 5 commits a summary offence ...”

is liable to a fine and imprisonment and so forth.

Mr. Deputy Speaker, any person can obtain permission to use a Coat of Arms and if you are a Minister in the said Government then surely it will be simpler and easier for your Minister of National Security to give you permission to use a Coat of Arms so there is no breach of the law in the use per se of the Coat of Arms. Where the law is breached is when we come to section 16 of the Motor Vehicles and Road Traffic Act which clearly states the categories of vehicles that are exempt from carrying the prescribed identification marks and the only vehicle that can carry an identification mark that is different—there were three categories, the

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first was as I said, you brought in a vehicle as a dealer and it is on demonstration you carry a D plate; you have been residing abroad, you brought in a vehicle, you come with it and you have three months within which to regularize your status and the only official in Trinidad and Tobago who is entitled to display another identification plate on his vehicle is the President. And so this is a clear breach of the law of Trinidad and Tobago. I do not know if it is still continuing, I did not see the car on Wednesday, I do not know if it is still being used today, but it is a clear breach of the Motor Vehicles and Road Traffic Act of Trinidad and Tobago. We are talking about the Motor Vehicles and Road Traffic Act, and I am dealing with a breach of section 16. You are coming to fix certain problems within the Act, when you have within your own administration a flagrant breach of the law.

I would like to know because one day we saw a vehicle parked outside and it reads ITTAGI. Again, is this person exempt under section 16?

Mr. Deputy Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. P. Manning*]

Question put and agreed to.

Mr. Manning: Mr. Deputy Speaker, I would like to advise the Member for Siparia that ITTAGI is really a licence plate of the Air Guard which has been established in Trinidad and Tobago.

Mrs. K. Persad-Bissessar: I thank the hon. Prime Minister for moving the extension of my time and Members for so granting.

Mr. Deputy Speaker, let us not get distracted. AG, Air Guard, whoever or whatever they are, my position is very clear that the vehicle in which the head of the government is driven carries an identification mark of a Coat of Arms which is in flagrant violation of the Motor Vehicles and Road Traffic Act. Let us get that very, very clear. I am saying the only person who can do that is the President and, therefore, already we all know the aspirations of Executive presidency but it seems as though the presidency must come before the Executive and, therefore, we see this Coat of Arms.

As we talk about the air guard, I read in the *Newspapers* a very serious allegation about Bombardier. The Opposition would have its say and the Government would have its way. It is an important issue and I commend the Government for firing the consultant, Parsons and Brinckerhoff. They were fired on October 23 because it was found there was a link between these consultants who were dealing with the monorail and Bombardier. They were fired by the

Government. So there is a conflict of interest, that these consultants who were to review the process and so forth—I am now being advised there was an undeclared interest so that there was a link between Bombardier which is one of the bidders in the rail projects and the consultant. Again, under the Ministry of Works and dealing with transport, so I am saying great.

Mr. Deputy Speaker, I understand that the hon. Prime Minister also has links with Bombardier because the hon. Prime Minister was on the Bombardier jet flying up and down and, therefore, there is a clear conflict of interest and it calls for firing of the Prime Minister Manning for a conflict of interest.

Mr. Manning: Mr. Deputy Speaker, tomorrow morning I fly on a Boeing jet to Barbados; is it that I have links with Boeing and now must be fired also?

Mrs. K. Persad-Bissessar: It depends. If the Boeing jet is a private jet, well then you have problems. Back to square one. If somebody is giving you a free ride under the Integrity in Public Life Act, you cannot accept gifts and this is even more dangerous where it is you have the person giving you the free ride engaged in bidding for a contract under the Government. It is a serious conflict of interest under the Integrity in Public Life Act.

Mr. Deputy Speaker: Hon. Member, we have gone quite a bit and I think we better come back to deal with—Hon. Member, you need to reply?

Mr. Manning: Yes. But of course! Mr. Deputy Speaker, I agree with you entirely that the Member ought to spend some time on the matter before the House but not before I clarify that precise allegation went to the Integrity Commission and that the Integrity Commission has made it pellucidly clear that there was no impropriety in the issue involved and, therefore, I thought I should put that into the records for the benefit of hon. Members.

Mr. Singh: I wonder if the hon. Member would give way. Mr. Deputy Speaker, the then Chairman of the Integrity Commission is now chairman of ALNG and Repsol was the beneficiary of that ruling by the chairman who is now in bed with Repsol at ALNG. There is an incestuous relationship so I do not find comfort in the Prime Minister's clearance of the Integrity Commission.

Mr. Manning: In other words, Mr. Deputy Speaker, what the Member for Caroni East is saying is the mere fact that in your capacity as chairman of the Integrity Commission you have to deal with any issue involving any company precludes you subsequently from having any association with that company. That is the logic of hon. Members.

Mr. Deputy Speaker: If we continue in this vein we will have to suspend the debate on the real Bill and get onto this one, so let us not go there anymore and could you please return to the Bill.

3.30 p.m.

Mrs. K. Persad-Bissessar: Thank you, Mr. Deputy Speaker. I am guided, but I have to respond. Like the Member for Caroni East, I take no comfort in what the Member has said because, first of all, it is misleading. To say that the Integrity Commission has cleared this matter is not so. That was with the Repsol plane ride. I am talking about the Bombardier plane ride. This is the second one. [*Interruption*] I know you always say that the Opposition will have its say and the Government will have its way—

Mr. Deputy Speaker: I agree with that, but how much of a say are we going to have if we keep—? We are dealing with a serious Bill, in which I was very interested in your contribution so far. This can always be brought back.

Mrs. K. Persad-Bissessar: I thank you, Mr. Deputy Speaker and I am guided. I have spent quite some time dealing with shortcomings in the legislation and, as I close my contribution, I lament the fact that we did not proceed in the manner we should have.

First, we met with the Prime Minister and his team last year. Hon. Minister you were not there. In addition to this legislation, there were other pieces we asked for and we were given three pieces of legislation for the second round of consultations. We never met thereafter and the Bill has been brought here. Nothing is wrong with that, but because of that failure to consult, not only at that level but on the national level, we have serious shortcomings in the Bill that have to be addressed before we can give full support to it. These have to do with policy decisions.

The Minister has suggested that he would take it back and return, like Claude McKay “I shall return one day.” I do not think that is going to help us and, through you, Mr. Deputy Speaker, I appeal to the Member for San Fernando East to approach it in a different way. It cannot be taken back there and take a month or a year. This is serious legislation. It will come to many in Trinidad and Tobago as a culture shock. There are areas that are draconian, but we want to do it right because it interferes with people’s rights. We have had discussions and we are of the view that this must go to a joint select committee of the Parliament so that we can thrash out all the areas of differences.

Mr. Deputy Speaker, two votes are needed from this side, only two votes. It is a three-fifths majority, not a two-thirds majority. I know the Members of Opposition on the Front Bench will not give their votes in the present form. We support it in principle, but not in the present form. Members on the Back Bench will speak on their own behalf, but I suggest that we go to joint select committee. It is policy, not drafting. You take it back to a draftsman and they will give you drafts, but they will not deal with policy issues.

Policy issues will be: Do you knock a man out; one strike, two strikes out and that is it? His licence is gone forever. Do you want to give a penalty as harsh as the first or second conviction or do you want to have three convictions? Those are policy decisions, not drafting decisions. That should be decided by the policy makers in the nature of the joint select committee of the Parliament.

Finally, this was long in coming; therefore we will wait a little longer to get it right. No harm in that. My colleague, the Member for Couva South, has said that this is a conscience vote on his part, so he really wants to have the policy issue as well as the joint select committee.

Mr. Ramnath: If I support this Bill, I will lose my seat. [*Laughter*]

Dr. Moonilal: That is a conscience vote.

Mrs. K. Persad-Bissessar: Mr. Deputy Speaker, in the anti-crime package—

Mr. Ramnath: People lost their jobs; they lost their land—

Mrs. K. Persad-Bissessar: If the hon. Member for Couva South would allow me to complete my contribution, he can speak after me.

In the package of anti-crime legislation, there were two other pieces of legislation—

Mr. Manning: Mr. Deputy Speaker, I thank the hon. Member for Siparia for giving way. The hon. Member alluded to the consultations that were taking place with the Government and Opposition on a suite of legislation on which we had agreed and that following the passage of some pieces, three other pieces had been given to them. The Government is guilty as charged that we had not been able to conclude deliberations on this piece of legislation in the way that had initially been contemplated.

It all arose because of the difficulties that broke out in the Opposition itself. The hon. Member for Siparia knows that. [*Interruption*] That is the fact of the matter. Not only that, it affected government business. Even if we now go that

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route, if the Member wishes that we continue along that line we are quite prepared to do that. We also have other hon. Members opposite whose presence in this Parliament the Government cannot afford to ignore, therefore it will call for restructured arrangements to pursue that line of discussion on which we had initially embarked.

I would also remind the hon. Member for Siparia, however she wishes to argue it, that a joint select committee in the classic Westminster system has no authority in matters of policy. Matters of policy are matters for the Executive. The joint select committee deals only with matters of drafting and law.

Mrs. K. Persad-Bissessar: Perhaps the initial policy was set by the Government; two strikes, you are out; I am not going to put drug testing; I am not going to put alcohol testing. That is the policy you have brought to us in the Bill, but when we sit in joint select committee we can give suggestions. We can say that you need to include drug testing; you need to look at the gradations of the penalties. In theory it may be so. It is true that policy making is in the hands of the Government; that is why you are the government, but a government does not act as a projectile on its own. A government is influenced by consultations with others and the joint select committee allows it to get consultation in a faster space of time from the people who represent the people out there. The alternative is to go out for the consultations, but there are representatives of the people who can bring their views, so let us not deal with the technicality of it. The point is that if we go to joint select committee, we can thrash out the areas of concern. We can have discussions and get a Bill that will better serve the interest of the people of Trinidad and Tobago. That is the way I see it.

On the issue of the anti-crime package, I was about to explain, before the Prime Minister intervened, why the consultations did not continue. I raised that point deliberately because of the comments that have been made repeatedly by the Member for Diego Martin East. He said that the Opposition was not ready and was holding it back.

I thank the Member for San Fernando East for making it clear that it was not because we were not prepared to talk to them. There were other considerations that the Government took into account why they did not call us back to complete it. I thank him for clarifying that. That is why, when I began I said that the Member for Diego Martin East usually says, "Nonsense!", "Arrant nonsense!", "Rubbish!", but is today very gracious and kind, so he will take the comments in like regard.

There were two other pieces of legislation in the second package, which I believe are very important pieces of legislation. They are the DNA Act—look at the child who was buggered and murdered—he is refusing to give a DNA sample, which could conclusively prove his guilt or innocence. If that Act were in place, the court could order mandatory testing—semen testing.

The murderer of this 13-year-old can go free because we have failed. The Act has been there since 2000. We are told that it is flawed. Please bring it to Parliament and let us look at it. Too many of our children and brothers and sisters—*[Interruption]* It is the DNA Act, 2000. Your Government has said that it is flawed and that you are looking at it. It is five years later. Bring it to the Parliament! Forget the consultations! If the Government has a problem with whom to consult, bring it to the Parliament. That is one out of the package. It is vital that it comes immediately. Bring it and we will do what we are doing now and get it passed and on the statute books. *[Interruption]* Bring it! Do not say you do not have time to talk or I do not have time to talk.

The other piece of legislation is the Equal Opportunity Act. Government had given us the commitment, when we went with the first package, the Police Reform Bills, that they would bring these early. It is almost one year. That has also been redrafted. Bring it to the Parliament and let us get it on the statute books.

The third is the Criminal Injuries Compensation (Victims of Crime) Act. I had to go to court on behalf of a widow—her husband had been murdered—to get the Government to appoint the board. That Act was also passed in 2000. There was no board, so people could not apply to get the money as compensation. The court ordered the board to be appointed. It was appointed in May this year but when we had met with the team, the undertaking was given that they would amend the legislation to increase the compensation. That too is already drafted. I respectfully ask that you bring the Criminal Injuries Compensation (Victims of Crime) Act to the Parliament.

Mr. Deputy Speaker, I thank you for the time and I thank Members for their attention. With these words, I take my seat.

Miss Gillian Lucky (*Pointe-a-Pierre*): Thank you very much, Mr. Deputy Speaker. I wish to indicate that I do not intend to take my full time because it is quite clear that the Member who piloted the Bill, the Member for Diego Martin East, is very receptive this afternoon. I have been seeing him taking copious notes. I cannot say always, but it seems that, as we are coming down to the wire, when it comes to whether or not we will be here after the next general election,

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that we have formed some kind of bond. [Laughter] I cannot even describe it at this point. [Laughter] We have some kind of bond and I am so grateful. [Laughter]

Mr. Manning: Mr. Deputy Speaker, I would like to advise the hon. Member for Pointe-a-Pierre that there is a requirement for full disclosure in this honourable House and perhaps she would like, for the benefit of the record, to indicate exactly what the nature of that bond is.

Miss Gillian Lucky: Mr. Deputy Speaker, bearing in mind that I do not want to lose sight of what we are discussing, I will give full disclosure and indicate that I have found, within recent times, that the Member for Diego Martin East is prepared to listen to what Members of the Opposition have to say whereas, before, as the Member for Siparia said, we would normally be met with very disparaging remarks. It is good to see this afternoon that we are being met with a pen and paper and notes are being taken. For that, I am truly thankful. I am glad that the Member subscribes to this bond of new politics that the Back Bench Opposition has been calling for, for a long time.

Bearing in mind that the hon. Member of San Fernando East is so concerned about full disclosure, let me indicate how truly happy I feel to hear him rise and seek to use as an excuse the fact that there seems to have been some change in the operations of the Opposition and that that led to a certain amount of lack of consultation. I want to tell the hon. Prime Minister that I am really happy that he has made this declaration this afternoon because I felt excluded for a long time.

The hon. Member for San Fernando East and the Member sitting in the Front Bench Opposition at the back would remember that those crime talks came about because of a contribution that I had made. It was the Member for San Fernando East who rightly stood up—and I gave way in that debate—and asked: “Would the hon. Member then be willing to have this level of discussion?” I said yes.

I felt left out when those crime talks were taking place that the Prime Minister did not seem to want to have me around, for whatever reason. I wonder if the undertaking he would give this afternoon, bearing in mind we are having full and free disclosure, is that when we are having further talks, he would consider giving me an invitation. Is he prepared to disclose that this afternoon?

Mr. Manning: Mr. Deputy Speaker, I assure the hon. Member for Pointe-a-Pierre that if she was excluded from talks on the last occasion, it had nothing to do with any posture adopted by the Government. In dealing with hon. Members opposite, it is normal for us to consult the leader of the team. In those

circumstances, again, I am not in a position, while I would welcome her input, to give any undertaking that she would be involved in future talks. I will leave such a decision to the hon. Member for St. Augustine.

Miss G. Lucky: I thank the hon. Prime Minister, but nothing prevents the hon. Prime Minister from including me in talks between him and me without having to have that level of professional bonding in the interest of country.

Mr. Manning: Mr. Deputy Speaker, the hon. Member for Poine-a-Pierre is attempting to put me in exactly the same position that she has put the hon. Member for Diego Martin East and I go into that position kicking and screaming.

Mrs. Persad-Bissessar: Mr. Deputy Speaker, I wish to remind the Member for Pointe-a-Pierre that when the crime talks were taking place, her leader, the Member for St. Augustine, was part of the team.

Miss G. Lucky: I would like to remind all Members because we have not been able to focus on the fact that when it was taking place I had already distanced myself —Dr. Fuad Khan, the Member for Barataria/San Juan, and I— and I was not a member of any political party at that time. I would like to indicate that and I am glad we got it clarified.

Putting aside now the political banter, let me make it clear that I always have—*[Interruption]* It is not fighting, Member for Laventille East/Morvant. Please do not try to engage us in what is not happening here in the House, which is infighting. It is an invitation, whether it goes by way of joint select committee or otherwise, that we need to get the legislation right. I am also indicating that if ever there is a need for that level of consultation, I am prepared to give it.

I listened carefully when the Member for Diego Martin East indicated that the legislation we have before us is based on the United Kingdom jurisdiction and the reason for it—and I would think that the principle is a good one—is that, bearing in mind we may have a North American culture, the fact is that we have laws that are primarily based on the United Kingdom. That is a fact that comes from our history.

I am using as my point of reference the *Archbold 2006* and I have looked at the various sections that are quoted therein that deal with the statutory requirements for giving blood and other samples to be used as evidence in matters. I can clearly state that there are fundamental differences and that the main fundamental difference is that there is a level of protection given to the citizen who is called upon to give samples that exist in the UK legislation and I am very concerned that that level of protection is not being given here.

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I think that there is nothing wrong, in principle, in supporting the legislation to call upon citizens who are in control—and I am glad it was described by the Member for Diego Martin East—as really being a vehicle, which could be classed as a dangerous weapon in a wide definition of what is a dangerous weapon.

In trying, therefore, to send a strong message, it must not be sent in total violation of the rights people must still have as protection for themselves when dealing with this kind of legislation. Therefore, I will ask, Mr. Deputy Speaker, that the hon. Member for Diego Martin East take a look at some of the protective measures that exist in the United Kingdom legislation and ensure, when he comes back, whenever that is, that they find themselves as part of the legislation that we are being asked to support.

Having made that point, may I give the easiest and simplest example of it? In the United Kingdom, any constable who requires a person to provide a specimen in pursuance of the section dealing with the provision of a blood sample, must, for example, indicate to the citizen so being requested that his failure so to do will result in a prosecution.

I am using that as the simplest example and nowhere here is a citizen being told if you do not give it you will be subject to prosecution. This is something that is done for those of us who have been involved in motor vehicles accidents—when we have been right or perhaps when we have been wrong.

One would always remember that when we give that report to the police, which is mandatory, even though it may be obvious that we were right, the police are still mandated to say, having given the report, please note that you may be liable to prosecution. Sometimes some of us leave the police station hoping that the police do not come after us because we were so sure we were right. It is something that is done. It is missing here and I am hoping that the nod I am getting from the Member for Diego Martin East means that it will be considered. *[Interruption]* favourably; that is even better. That is the bond.

Mr. Deputy Speaker, I had asked previously and I was given the assurance that there was going to be that level of education of the public. I am the first to admit that when one goes out and one is having a good time, there is consumption of alcohol. I know that it has been given a statutory definition in terms of what will be the prescribed limit, but I think that we need to break that down into practical terms: whether it will be one beer or two beers. What exactly does it mean?

The Member for Siparia had made the point that it is going to be a culture shock legislation and, for a long time, we have needed it. I really believe that the shock has come late in the day and I am glad that it has come, but we need to get a practical appreciation of what it means so that those of us who are very serious in ensuring that we do not violate the law—especially those of us who sit in this honourable House—we do not want to be embarrassed like other persons and, of course, we want to adhere to the laws. We want to have that practical appreciation. I feel we have not gotten that level of education as yet.

When one looks at the various ministries and what is being done in terms of educating the population, there seems to be no limit on the amount of money that is being spent in term of campaigns. I believe that this particular legislation does call for a very intense campaign in both Trinidad and Tobago, using the media, but also in practical terms, going to the schools and letting students, especially the 18- and 19-year-olds, who are leaving their teen years, appreciate the impact.

Speaking of appreciation, I would like to go immediately to clause 5, 70A(3). The issue was raised—and I quite agree—yes we must send a strong message and there must be no compromise in the message we are sending. If you are not in a position properly to control a vehicle because you are inebriated, you should not be driving. I have prosecuted in matters in which—it used to be called motor manslaughter; now the offence is death caused by reckless driving—the accused, in many instances, when death occurs especially, would be very contrite to the court and indicate that they really did not intend to kill the person. They did not go out there like a brutal, cold-blooded killer and say they want to kill or they want blood. It was a case of being inebriated, being very reckless and grossly negligent to the extent that the person was driving and caused serious injury killing innocent bystanders.

Sometimes when you look at those persons, I think the level of guilt they feel really moves you. I am not saying move you to the extent that they ought not to be punished, but at times like that I felt we really needed this type of legislation. I have heard many persons in this honourable House say, and I agree, that sometimes you need to pass laws so that you can help people to better help themselves. This kind of legislation is about helping people to better help themselves.

When you commit an offence in which you kill an innocent person and you really did not intend it, there is nothing you can do to bring back life. I suggest to the hon. Member for Diego Martin East that the message must be powerful, but

Motor Vehicles and Road Traffic Bill
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let us look at the provision dealing with a second conviction and what happens, that is, the permanent disqualification.

The Member for Diego Martin East had stated that this legislation was based primarily on the United Kingdom legislation. *[Interruption]* I take your point. I say primarily meaning that it is not on all fours; meaning that you have taken the basic tenet. One important thing that the United Kingdom has is the penalty system. That system operates in tandem with the sentencing guidelines. When dealing with the sentencing guidelines, in the very *Archbold 2006* from which I am quoting, paragraph 32-167 states:

“The following guidance on sentencing in road traffic cases, including the ‘convoluted’ penalty points system...”

Even in the United Kingdom they recognize that the penalty system is a convoluted system. There is no easy way to deal with it, but we do not even have a penalty system. I do think that there must be some consideration given to this very stern penalty which seems to have no means of turning back unless you bring some other kind of legal action when it states that:

“(3) A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of twelve months...and on a second conviction for a like offence, he shall be permanently disqualified...”

I think that the Member for Diego Martin East might be quite excited to at least consider the suggestion I make. It is not a case of reinventing the wheel, but a means of allowing a certain amount of flexibility on that particular issue. Think of a young person or someone not so young where the circumstances were such that a court might have wanted to consider whether there should be a permanent disqualification, but the mandatory nature of the sentence prevents a court from so doing.

I look at the Motor Vehicle Insurance (Third-Party Risks) Act, Chap. 48:51, section 3(2) which had it worded in this way:

“If a person acts in contravention of this section, he is liable to a fine of five hundred dollars and to imprisonment for six months, and a person convicted of an offence under this section shall (unless the court for special reasons thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification) be disqualified from holding or obtaining a driving permit...”

I am therefore suggesting that we include the words “in this manner”. In clause 5(3) of 70A let it state:

“A person convicted of an offence under this section shall (unless the court for special reasons thinks fit to order otherwise and without prejudice of the power of the court to order a longer period)...”

In other words, the court gets that level of flexibility and when it comes to the mitigation of the sentence, the onus will now be on the accused or the defendant to put forward to the court where even though the law says that for a second conviction there ought to be permanent disqualification, there are certain reasons why that ought not to be done. It gives the flexibility we need. It is not recreation. It comes from that piece of legislation and I think, with the greatest respect, it solves the problem.

The next issue is found in the clause—

Mr. Hinds: Hon. Member, if in your opinion that solves the problem, is the Member considering that it is likely that that very person, not being permanently disqualified, could go on the roads and commit the same offence?

Miss G. Lucky: Mr. Deputy Speaker, when one operates in the court as frequently as I do—I am not saying that the Member does not—there are certain conditions that can be placed upon the accused. When it comes to mitigation in sentence, for example, if a person is saying, “Court, please have sympathy on me. I am asking for leniency. I am asking not to have permanent disqualification. I undertake to go to a rehabilitation centre; to take voluntary testing once per month and counselling.” That is what I have always been advocating for the drug court—they will be able to distinguish those who are able to use drugs as opposed to the drug lords—which is something we need in the country.

4.00 p.m.

I have seen the Bahamas implement that court and it is working. Some of us who are before the courts are trying to implement it in an ad hoc way, when it comes to mitigation in sentence, when there is the plea of guilty. It is not just a matter of saying: “I will go forth and never do it again.” We know that is not good enough.

Everybody, when he or she is convicted, wants leniency of a court and wants to say: “Please, I will not do it again.” The person is put on a bond and then he or she can be made to do certain things. This is what the concept of community sentencing and the kind of creativity in sentencing without in any way compromising justice, is all about. You tell the person: “Okay, 12 months.” Member for Diego

Martin East, I heard you say counselling, and one should go for voluntary testing, for which one must pay and you say: "If, during that period of time, you come back before the court, for a similar offence, even if it is pending, in other words it has not been determined and you have that level of flexibility given to the court. The court is not going to easily say that it will not disqualify. The way it is phrased, it says: "the court for special reason". The court will have to exercise its discretion.

That is the suggestion I have made, Member for Laventille East/Morvant, lifting it from the section that exists in the Motor Vehicles Insurance (Third-Party Risks) Act. It is a suggestion I am asking be considered and let the courts, which would have all the facts before them, make the decision. They are not going to easily allow a person, because there are certain things like the injury that was caused and the frequency. I am sure they would have all the criteria to make the determination.

The next point was dealing with the breath analysis itself. The subsection that dealt with a person who did not subject himself at the scene of the accident and the power being given to a person being required to submit to a breath test at the person's usual place of abode. I am suggesting that the phrase: "at that person's usual place of abode", be taken out.

If a person commits a criminal act, in other words a hit and run, more likely than not, that person may not go back to the usual place of abode. The person may go somewhere else and hide out. Already, the criterion being placed is that it must be done within the preceding two hours; provided that the accident resulted in death or serious injury. You do not want a person to have hit and run. You have information where the alleged offender is and the alleged offender waits for the time period to pass, let us say two and one-half hours, because the time period is two hours, and then goes back. It will be a self-defeating section, in my view.

I know what the understanding or interest is in the section—you want to ensure that you could not do it at the scene for whatever reasons, as stated, but once you can find yourself at the usual place of abode. What would be determined "usual"? Instead of giving oneself that level of legal gymnastics, just remove the phrase, unless there is some other reason for so doing.

Mr. Imbert: If you take a look at page 8, clause 5, new subsection 70(B)(3), it allows the police officer to take the test at the place, near the place, or at a police station.

Miss G. Lucky: I know that already but this is another section. You cannot—and this is where, sometimes when the suggestions are made—Member for Diego

East, I am not throwing this in your court at all—you hear of things such as implied repeal and it will be an understanding. Let us not give any kind of legal technicality to a person, so that when you go to the courtrooms—I operate there and I can tell you that sometimes technical points are taken such as: should it have been at the house, it should not have been and then a constitutional action is taken. Let us try and sort it out.

I do understand the point. To me, what was being provided here was, in fact, a separate kind of scenario. The one that came to my mind was the hit and run; where the person hits and run, you have two hours, you know where the person is, or somebody was able to help you track down the person, and you do not want more time to pass, where it becomes useless to take the test. I think, therefore, you might want to take out the words “usual place of abode”. It is something I am suggesting. In those words, “usual place of abode”, what do you mean by “usual”?

Mr. Imbert: My understanding of this section is that it is an invasion of privacy to go into somebody's home. You are giving the police officer the right to go into the home if he suspects that there has been an accident. The police officer also has the right, if he can locate the person, to make him go to the nearest police station as well. The places where they can test the person are at the accident, near to it or if he finds him somewhere and says: “come with me to the police station,” or he can go into his home and do it. If you are suggesting that we make it totally wide, that is something we can consider. I have no problem with that.

Mr. Hinds: In fact, as it now stands, “place of abode” actually means a place where a person usually sleeps and eats. The word “usual” is not troublesome.

Miss G. Lucky: This is exactly what I mean. Member for Laventille East/Morvant, the use of the phrase is “usual place of abode”. You are saying that “place of abode” is where you usually stay. You do not have to give the answer now. Look at it. I understand what the Member for Diego Martin East is saying. I found that he understands when I speak. Sometimes the Member for Laventille East/Morvant, with the greatest respect, does not understand, such as the issue with implied repeal.

We had a committee stage in a Bill that was dealing with something that the Member for Laventille East/Morvant piloted and the Member for Diego Martin East, who is now blushing, had to take over the whole thing in the committee stage. I asked who the lawyer was. I know that the Member for Diego Martin East comes from very powerful genetic, intellectual stock so I was not surprised. I am not dismissing the Member for Laventille East/Morvant, but I making some

headway with the Member for Diego Martin East, intellectually and I do not want to lose my momentum.

Mr. Hinds: I will respond.

Mr. Imbert: Not today.

Mr. Hinds: I will have my turn.

Miss G. Lucky: You will have your turn, so wait your turn. Mr. Deputy Speaker, there is a great concern I have with a provision that deals with the instruments that are used or evidence with respect to the taking of the breath analysis. Subsection (11) states:

"In any proceedings for an offence under this section, evidence of the condition of a breath analyzing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced."

In other words, that is a section that deals with the principle of presumption of regularity. There is a presumption of regularity that, unless you can show otherwise, traffic lights are working. Unless some evidence could be brought to show that when you ran the red light, the traffic lights were not working, there was a presumption of regularity. It does not only apply to equipment in law; it applies to other things. That is what is being dealt with here.

I really think that this is unfair to a person who may want to challenge it. Look at the wording:

"..evidence of the condition of a breath analyzing instrument or the manner in which it was operated shall not be required unless evidence that the instrument was not in proper condition or was not properly operated has been adduced."

How are you going to get that evidence? Do not think of it from the prosecution, think of it from the eyes of the defence. How are you going to get it? How are you going to adduce that evidence? More likely than not, when the case is being heard, much time would have been spent.

Again, I am concerned about this particular section, because I do not know if the Member for Diego Martin East is aware, in many matters before the courts, dealing with the use of the scales at police stations, when exhibits are being weighed—Mr. Deputy speaker, I am not bringing you into the debate but, from your own experience in the practice of law—there have been many instances when these scales have not worked, no fault of the police officers, and you get great differences in weight when it is taken—I see you are nodding—to the Forensic

Science Centre, for example, and you see what might be 20 kilogrammes having been recorded in a police station as 10 kilogrammes, which is a fundamental difference. The scales that are used at police stations have always been a big issue. If this is something as “simple” as a scale could be an equipment which is subject to integrity and scrutiny, in this particular provision, you are saying: presume that everything is in good order, in terms of the equipment. How would a defendant get evidence that it was not working, over and above saying: “I know that I did not have alcohol on my breath to that extent, so any equipment that says otherwise is wrong?” That is something to consider.

Member for Diego East, again when you were making the point with the UK jurisdiction, I am sure you were aware that in the United Kingdom, they talk about the taking of specimens. Member for Diego East, perhaps you could indicate why it is in the UK they talk about taking more than specimens, but in our legislation we are just going to be talking about taking one specimen, as opposed to two? In the UK, the reason two specimens are taken is that if one has a reading lower than 50 microgrammes, the person who provided it may claim that it should be replaced by such specimen as may be required. The person may say: “Do not use my breath, I am volunteering now, you can use my blood instead.” In the UK, two specimens are taken and the one with the lower proportion of alcohol is the one that is used. To me, the reason that is done is to provide protection to the citizen, so that in case the first use of the equipment was done wrongly, at least there is a second use where you may pick up the mistake.

Very much, when we go for a medical examination, you may find that there is a taking of the blood pressure and if it seems abnormal, or not what would be expected, a second reading is taken, because there is the recognition that there may be an error somewhere. That would, therefore, be an inherent check in the United Kingdom, which is not present here.

Another point—I am using them as bullet points—is the fact that, in this piece of legislation that is before us—again, I am making the point that I support the principle of the legislation; the need for us to have it—I am very concerned about the sections, provisions and clauses that deal with how the testing will be done; the certificates, and that when they are given, they would be given to the defence; and the content is deemed to be prima face evidence. I feel if this is the direction in which we are moving, we must ensure—*[Continuous interruption and crosstalk]* I know that there is a lot of conversation seeming to be engaging the House but I am speaking to you.

Mr. Deputy Speaker: I am listening and the Hansard reporter is paying attention.

Miss G. Lucky: I know and I am looking to you for a nod to continue with the point that I feel that we have, in this legislation, left out a lot of the inherent protections and assurances that exist in the United Kingdom, that do not exist in this legislation.

As I conclude—when I began, I indicated that I was not going to be very long—because I do not want to repeat the points of the Member for Siparia and those points that I agreed with. I endorse what has been said. I thought it necessary to use some other examples, where there are legal challenges. I feel it important that we address those particular legal challenges.

In that regard, might I just indicate that the contribution has been short. I have tried to give the solutions and I am hoping that we would get that level of meaningful consideration.

We in the Congress of the People, in the Back Bench Opposition, have caucused on the particular point and we too feel that there will be a benefit in having a collective discussion on the issues that have been raised. Therefore, we on the Back Bench want to recommend, again, that this legislation be taken to a joint select committee so that we can have that level of meaningful debate there and bring it back.

We have done it for the Copyright legislation. Let us do it for this piece of legislation, so that we could all know that we are buying into something to sell to the population for their own benefit; something that is right and will not be subject to unnecessary legal tangling.

I thank you very much, Mr. Deputy Speaker.

The Minister of Works and Transport (Hon. Colm Imbert): Thank very much, Mr. Deputy Speaker. [*Interruption*] By agreement. I want to thank hon. Members opposite for their tremendous cooperation, both the Front Bench and the Back Bench. By agreement we will be taking this legislation into a joint select committee so we will get the combined wisdom of both Houses of Parliament.

Mr. Deputy Speaker, I beg to move that this Bill be read a second time and passed.

Question put and agreed to.

Bill accordingly read a second time.

Hon. C. Imbert: Mr. Deputy Speaker, I beg to move that the Bill before the House be referred to a joint select committee of both Houses.

Question put and agreed to.

Bill referred to a joint select committee of both Houses.

Mr. Deputy Speaker: The names will be given later.

BANKRUPTCY AND INSOLVENCY BILL
(Recommittal to Joint Select Committee)

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Deputy Speaker, Members will recall that during the Fourth Session of the Eighth Parliament of the Republic of Trinidad and Tobago, this House, at a sitting held on Friday, May 05, 2006, resolved that a Bill entitled “The Bankruptcy and Insolvency Bill 2006”, be committed to a joint select committee for consideration.

That committee was mandated to report back to the Parliament no later than August 31, 2006. The House also agreed that this Bill be published for public comments and that the committee consider such public comments.

On Tuesday May 09, 2006, the Senate agreed to similar resolutions. Ten Members from both Houses of Parliament were appointed to the joint select committee and the committee met on five occasions to conduct deliberations on the Bill. During consideration of the Bill, the committee solicited the advice of both the Chief Parliamentary Counsel and the Law Reform Commission.

In keeping with its mandate to procure public comment, the Bill was published in the *Express* newspaper of June 11, 2006. Several copies of the Bill were also circulated to interest groups and selected individuals, in an attempt to reach all sectors of the society.

Correspondence relating to this Bill was received and a review of same was undertaken by the committee.

To facilitate the completion of its work before the end of the Fourth Session, the committee laid an interim report in the House of Representatives on September 01, 2006, seeking an extension of three weeks in order to present a final report to the Parliament. However, the committee was unable to complete its deliberations at the end of the Fourth Session and a savings report was laid in Parliament on September 15, 2006. As you know, that was a period when, as the chairman of that committee, I was out of the country leading the Inward Investment Mission in Europe.

Bankruptcy and Insolvency Bill
[HON. K. VALLEY]

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This report asked the House to adopt the work of the committee and recommended that the Bill be re-introduced in the Fifth Session and referred to a new committee. The Bankruptcy and Insolvency Bill 2006—[*Continuous crosstalk and interruption*]

Mr. Deputy Speaker: Hon. Members, please, the Minister is being disturbed and so is the Hansard reporter.

Hon. K. Valley: The Bankruptcy and Insolvency Bill 2006 lapsed upon the prorogation of Parliament on September 22, 2006. The Bill was re-introduced in the House on Wednesday, October 04, 2006 and the decision that is now before the House is for the Bill to be recommitted to a Joint Select Committee of Parliament, to complete deliberations of the Bill.

I beg to move.

Question put and agreed to.

Hon. K. Valley: Mr. Deputy Speaker, in accordance with Standing Order 51(1), I beg to move that a Bill to revise the law relating to bankruptcy and insolvency, to provide for the rehabilitation of the insolvent debtor and to create the office of supervisor of insolvency, be recommitted to a joint select committee for consideration and report.

I further move that this committee be mandated to consider the public comments received and report back to the Parliament upon completion of its deliberations.

Question put and agreed to.

Hon. K. Valley: Mr. Deputy Speaker, I beg to move the following five members be appointed to serve with an equal number from the Senate on the joint select committee just established: Mr. Kenneth Valley, Mr. Colm Imbert, Mrs. Camille Robinson-Regis, Dr. Roodal Moonilal and Mr. Gerald Yetming.

Question put and agreed to.

ADJOURNMENT

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Deputy Speaker, I beg to move that this House do now adjourn to November 10, 2006 at 1:30 p.m. I would like to inform hon. Members that on that day the Government plans to debate the Bill which is listed as Bill No. 3 on today's Order Paper, a Bill to provide for the establishment and management of the Heritage and Stabilization Fund and for matters related thereto.

Adjournment

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Mr. Deputy Speaker: Is there a Motion on the adjournment?

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.27 p.m.