SENATE

Tuesday, April 21, 2015

The Senate met at 10.30 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. James Lambert and Sen. Elton Prescott SC, who are both out of the country.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona O.R.T.T, S.C.:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C., President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: MS. ASHAKI SCOTT

WHEREAS Senator the Honourable James Lambert is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ASHAKI SCOTT, to be temporarily a member of the Senate with effect from 21st April, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable James Lambert.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 20th day of April, 2015."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C., President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: DR. KRIYAAN SINGH

WHEREAS Senator Elton A. Prescott is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KRIYAAN SINGH, to be temporarily a member of the Senate, with effect from 21st March, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Elton A. Prescott, SC.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 17th day of April, 2015."

OATH OF ALLEGIANCE

Senators Ashaki Scott and Dr. Kriyaan Singh took and subscribed the Oath of Allegiance as required by law.

LETTER OF ACKNOWLEDGEMENT
(Mrs. Barbara Carter)

Madam President: Hon. Senators, I wish to bring to your attention that we have received correspondence from Mrs. Barbara Carter, acknowledging on behalf of herself and her family, thanks for the tributes paid by hon. Senators with respect to our beloved Joseph Emmanuel Carter on the occasion of his passing.

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2003. [*The Minister of Finance and the Economy* (*Sen. The Hon. Larry Howai*)]

2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2004. [*Sen. The Hon. L. Howai*]

3. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2005. [*Sen. The Hon. L. Howai*]

4. Ministerial Response to the Eighteenth Report of the Joint Select Committee of Parliament appointed to inquire into and report on Government Ministries, Statutory Authorities and State Enterprises (Group 2) on the administration and operations of the Government Human Resource Services Company Limited (GHRS). [*The Minister of the Environment and Water Resources* (*Sen. The Hon. Ganga Singh*)]

INSURANCE BILL, 2015

Bill to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes; read the first time. [*The Minister of Finance and the Economy*]

Motion made: That the next stage of the Bill be taken at a sitting of the Senate to be held on Tuesday, May 05, 2015. [*Hon. L. Howai*]

Question put and agreed to.

WRITTEN ANSWER TO QUESTION

Sen. Camille Robinson-Regis: I apologize for doing this now, but I know we did not talk about questions for written answer, but there is one question for written answer. The answer was due since January 05 and I would like to get some information on that answer, please. Thank you.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. In response to Sen. Camille Robinson-Regis' question, the Minister of Sport is collating the information with respect—it is a fairly broad spectrum and therefore, we want to ensure that the information we provide to Parliament is accurate. So, he is in the process of collation of that.

On the last occasion we indicated that we needed a two-week period, so hopefully by the end of next week we will be in a position to provide a written response.

Sen. Robinson-Regis: Thank you, Madam President, I am grateful for that answer. Thank you.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

Order for second reading read.

The Minister of Transport (Hon. Stephen Cadiz): [*Desk thumping*] Thank you very much, Madam President. Again, I am very, very pleased to be here in this Senate to present what is going to be, I think, one of the pieces of legislation that really and truly is going to change, genuinely change, the way in which we do business in Trinidad and Tobago.

So, Madam President, this Bill entitled the Motor Vehicles and Road Traffic Bill, 2014, it is fairly large. It is a large Bill which comprises 22 parts with a total of 272 clauses. The Bill seeks to repeal the following:

1. The Motor Vehicles and Road Traffic Act, Chap. 48:50;
2. The Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52;
3. The Maxi-Taxi Act, Chap. 48:53.

Madam President: Minister of Transport, procedure to beg to move that the Bill—[*Interruption*]

Hon. S. Cadiz: Thank you, Madam President. I do apologize to the House. I beg to move:

> That a Bill to establish a Motor Vehicles Authority for the registration, licensing and regulation of motor vehicles and drivers, the regulation of road use and for matters connected thereto, be now read a second time.

Madam President, as I, in the error I made earlier on, but I will just repeat it, not the error, I will just repeat what I said, that really and truly this Bill, really and truly serves to change the way in which we do business in Trinidad and Tobago when it comes to our motor vehicles and road traffic—the use of roads and the way in which we deal with motor vehicle licencing, et cetera.

The Motor Vehicles and Road Traffic Bill, 2014, comprises 22 parts with a total of 272 clauses, and the Bill repeals the following:

1. The Motor Vehicles and Road Traffic Act, Chap. 48:50;
2. The Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52;
3. The Maxi-Taxi Act, Chap. 48:53.

Madam President, the last time Trinidad and Tobago had a vehicle population of below 100 was in 1910. We actually had 50 vehicles registered in the year 1910. To date we have in excess of—in fact, the actual figure we have to determine, but it is in excess of 730,000 vehicles. And therefore, trying to run a licensing system where we started off with less than 50 in 1910 to where we have reached today, obviously things have to change. And the whole way in which we manage the business of vehicles, of course, it is critical for many, many reasons.

10.45 a.m.

The existing legislation presently provides for the registration of vehicles; the issue, suspension and revocation of driving permits and driving and other offences relating to the use of roads in our nation. Since 1934, there have been 90 amendments throughout the years. And just to bring things in its proper perspective, Wrightson Road that you hear the general public complaining bitterly about, was actually constructed in 1951, and therefore, besides the archaic legislation that we are operating with, the facilities that we operate with are also old and, of course, require modernizing.

San Fernando, from what I understand, was not too far from 1951. It was a couple years later than that, and then, of course, that, basically, was the end of it. It was just those two main depots that we had: Wrightson Road and San Fernando. Now, of course, there is one in Tobago which is also challenging. Then we have other sites that do not do full vehicle inspection, et cetera, like Arima, St. James, Point Fortin, I believe Rio Claro.

So the system has not kept pace with the level of business that the licensing office is expected to deal with. And, again, to put things in its proper perspective, on a daily basis we would do the following transactions—and these are approximate; the quantum—1,600 driving permits per day—that is renewal; 250 transfers; 200 changes of when you go to change your engine number, the colour of your vehicle, et cetera; 400 regulations—for when people come to sit their regulations, 400 people on a daily basis. We issue approximately 250 certified copies and we do approximately 120 driving tests on a daily basis nationwide.

Madam President, when you think of it, that all of this, nearly every single part of that is done with a manual system, and therefore, if one had to keep those records, and keep those records accurate—not only keep them accurate but to actually file them where they are accurate—because right now, for instance, an engine number on a vehicle might be transferred from one book to another book, to another book, to another book. We might have, written down the same 15-digit number or 20-digit number maybe six or seven times for the same registration, and there is obviously going to be some human error.

We have read recently in the papers where you have the same vehicle—or two vehicles—with the same registration number, et cetera, and all of that stems from human error. But when you think of the volume of work that has to go into this system and the file-keeping, et cetera, it is extremely difficult because with the motor vehicle business, it is all numbers and letters. Okay? Everything—it is all numbers and letters and, therefore, trying to maintain that and maintain that in any semblance of order is an issue.

In addition to that, you have multiple sites. So, for instance, the work that San Fernando does on one day, Port of Spain might not see that work maybe for another week, maybe another two weeks, after they can get the files up to the main office, et cetera. And likewise, what happens in Arima might take them days before the main office is aware of what has transpired.

What we are looking to do now with this new Motor Vehicles Authority Act is to, really and truly, bring Trinidad and Tobago very much into the 21st Century where everything is done real time. In doing that, we will find that we will, all of a sudden find yourself going into a licensing office where 20 minutes might be your maximum time. I am not saying we do not do it now. I get calls where people tell me they go into the St. James office and in 15/20 minutes they are out. That has to be the norm. That has to be an everyday occurrence.

No longer are people going to have to take a day off from work. Sometimes people have to take days off from work just to get a simple transfer of a vehicle. Maybe they bought a vehicle and there is need for it to be transferred, and that could take days. There are horror stories coming out of the licensing office. When you go to apply for your certified copy and the clerk tells you, "Well, no problem. Pass back in about two months for it", that cannot be right. You want to do this transaction today; you want to transfer your vehicle; you want to pay off your loan, whatever it is that you want to do, and they tell you come back in two months. There is no way we can run a country with that sort of system still in place.

Therefore, we aim to bring the licensing office, or what will now be known as the Motor Vehicle Authority, into a full-fledged business type of operation where, when you go, you get the services on time. You can go into one of the new authority buildings where it is a pleasure to go into it. The buildings are new buildings. The buildings have been refurbished, refitted and, again, people will not feel this tension. From the time they tell you, you have to go down to the licensing office, you start to feel the tension "one time", and we want to eliminate that. Dealing with the public services should be an everyday occurrence, where there is no issue when it comes to dealing with any Government office, and we are no exception.

Madam President, in the first four months nearly 20,000 vehicles have been registered already. Last year we had approximately 33,000 vehicles registered for the year 2014, and here it is, in the first four months of this year, we are just about to change into the third series. So it can just tell you the volume of work that is going on there.

So, also, of course, beyond a shadow of a doubt, the People's Partnership manifesto is Government policy, and therefore, when we speak to that, and we speak to Pillars 1 and 3 of the manifesto of the People's Partnership—Pillar 1 speaks to a people-centred development, where all our citizens can make a valuable contribution to aspects of national life. In this regard, the consultation that we have had throughout Trinidad and Tobago has been extensive. We have gone to all interested persons, NGOs; there have been public consultations; we have had meetings with groups that ask for a meeting to air their particular views, et cetera. So this Bill has been developed not only by lawyers in the Ministry, but by, really and truly, going after full-blown and proper consultation.

So when we speak of the various aspects of the Bill, we have put ourselves in the position of different people, whether you are a large operator or whether you own a fleet of trucks, whether you are a person with disabilities, whether you are a novice driver, regardless of what it is and regardless of which area, we have been able to consult with Trinidad and Tobago. Therefore, this Bill has been developed by Trinidad and Tobago, and therefore, we feel, without a doubt, that this Bill is functional. It will work. It will work extremely well.

Pillar 3 of the manifesto refers to the question of national and personal security. Again, when we look at crime in this country and you read about a car chase, you read about stolen vehicles, you read about illicit drugs being found in a vehicle, you read about arms and ammunition being transported in a vehicle—there are very few illegal drugs or arms and ammunition, I would think, that are being transported by pedestrians or by bicycle. I would like to think that based on reports and based on how we operate today, that nearly all illicit drugs, weaponry, and what have you, and bandits for that matter, are in a motor car, moving from place to place.

What this Bill seeks to do—again, bringing Trinidad and Tobago into the 21st Century—is to be able to, at the drop of a hat, a police officer will be able to recognize whether or not the vehicle that he is seeing in front of him, whether or not that licence plate does, in fact, match that vehicle. We would be able to know immediately on an individual producing a driving permit, as to what the record of that person is; where does that person come from; how many charges, if any pending, et cetera.

So it is not going to be the old system of you going down the road to basically a corner shop and getting a licence plate made and putting it on your car. The old system of producing a driving permit that, really and truly, just has that information on that one card, and you cannot gather any more information off of it than exactly what you are seeing, all of that is going to change the way in which we do business.

So when we talk about issues of crime in Trinidad and Tobago and we look at the policing of our roads, the police are going to have yet another tool in their toolbox to be able to deal with criminals, where we will know who they are. Later down in the presentation I will go into more detail. For instance, if a vehicle is stolen in Port of Spain and is heading to a place other than Port of Spain, or even within the Port of Spain area, the way the system is going to be set up is that the police will be able to track that vehicle and know that that vehicle has either left Port of Spain; it is heading for Toco; it is going to San Fernando. We will be able to track these vehicles. So when we talk about dealing with crime and the criminal element, again, this new Bill, really and truly, speaks to that.

We talk about road safety, and I am pleased to inform this House that for this year we have seen a 25 per cent drop in fatalities as against the previous year which saw, I believe, a 43 per cent drop from the previous year. [*Desk thumping*] So over a five-year period we are going to be seeing a substantial drop in road fatalities. [*Interruption*]

Dr. Griffith: And lives are saved.

Hon. S. Cadiz: Those are lives that are saved. The one area that we are very concerned about, however, of course, is the pedestrian fatalities and the pedestrian facilities have actually increased. These are people walking across the road in the middle of the night, walking under a walkover. The walkover is right there and they insist on trying to run across six lanes of cars, et cetera. Not in every case, but we have seen a rise in the pedestrian fatalities, but the actual vehicle fatalities have dropped significantly. That is from the various amendments that have come in.

For instance, we talk about drunk driving laws, we talk about seatbelt laws, we talk about the use of mobile devices laws, have the new speed detection devices that are coming on stream very shortly. So, again, all of that is about properly managing our road system. So we are very much on the way, Madam President, to a modern motor vehicle traffic system operating in Trinidad and Tobago.

We have seen some other areas that we have actually—when we speak about road safety, we look, for instance, at the installation of cable barriers. The Minister of Works will tell you that there have been, I believe, 250 hits on the cable barriers on the Solomon Hochoy Highway—250 vehicles that were prevented from actually crossing the median which might have resulted in a horrific crash. So cable barriers are being installed. I believe the New Jersey barriers, which are the concrete barriers, also being installed.

We are looking at improved lighting along the highways, the surveillance bays. Of course, the Minister of National Security will always boast about the highway patrol vehicles. These are things that we see on the roadway constantly now. We see the new vehicles patrolling. Therefore, through increased numbers of police officers and strengthened law enforcement, all of that adds, of course, to the success of the reduction in road fatalities. I must say 1958 was the last time we saw road fatalities below 100. That was in 1958, and if we look at where we are today, we might very well break a record this year with the reduction in road fatalities, which, of course, I think, would be very, very welcome by all.

We have issues, for instance, with the cycling federation, around the Savannah. We recently started cycle lanes at various times around the Savannah. Again, that was done in consultation with the cycling fraternity, where we sat down with the cycling fraternity to work out how this would work because, of course, we see cycling in Trinidad, as many of us know, you take a chance when you go out there on the roads, and here it is, around the Queen's Park Savannah, the first dedicated cycling lane within specific hours. A new one is going to be opened down in Chaguaramas and we are looking to do that in all the main centres, to have dedicated cycling lanes throughout Trinidad and Tobago. [*Desk thumping*] And, of course, that promotes good, clean family time.

11.00 a.m.

Madam President, I now turn my attention to the actual contents of this Bill because, as I said, it is 272 clauses. So is it fairly, fairly large. If we look at Part I—now Part I, clause 4, provides for various interpretations of the terms used in the Bill, and one example that we are looking at is the Bill that defines the terms "chartered vehicle" as meaning:

> "… a hired vehicle other than a hiring car, maxi-taxi or private school bus with seating accommodation for eleven or more passengers..."

The current legislation makes no such provision, and therefore, you have people who hire out what we know as a stretch limo. You see people doing it for weddings, you see people doing it for—I see for graduation now that is a big thing.

These stretch limos currently have no legislation that covers them. It is outside of a taxi, it is too small to be a maxi-taxi, and therefore, yes, it is a service that is being used by many, many people and yet still there is no real legislation that actually covers these stretch limos. So they still have to go under the H car, but they are not riding like a route taxi. They do not operate like a route taxi and, therefore, because of the size of the vehicle where you have maybe 10 or 11 passengers in the vehicle, they do not operate, for instance, like a limo service that you might get at the Hyatt or as a tourist taxi as we know it. Therefore, with the chartered vehicle coming in with this new legislation, we actually positioned these vehicles under that heading of "chartered vehicle", and therefore, finally, they will now be part and parcel of the mainstream registration.

Antique vehicle: there is no definition for antique vehicles. So we have brought that in because, of course, there are import laws where you cannot import a car that is older than six years, et cetera, et cetera, but there are some people who collect cars, there are some people who are returning from away who have spent their life away and they have this precious MG or Triumph or whichever antique vehicle they have and under the current legislation it is extremely difficult for them to bring that vehicle to Trinidad. So, why not go with a definition for antique vehicle, and we have moved the years.

The original definition was actually a vehicle 50 years, and then we said well 50 years the vehicle is probably a bag of rust so maybe we should not have 50 years. When we looked at other jurisdictions obviously, whether it was England with the Royal Automobile Association and various associations in United States and Canada, 25 years is a happy medium, and therefore, that is what we are going to be doing. So that moves from 50 to 25 years in the amendments that we had in the other place and, of course, 25 years is a much better period.

Also in the definitions after a "maxi-taxi", we have the definition of "medical practitioner" which means:

"…a doctor or the phlebotomist qualified from an accredited university;"

Before that we only had a medical practitioner which, of course, would have created major problems if you have to do a blood test. If there was an accident and you had to do a blood test, you actually have to go and find a medical practitioner. That we have changed, which again brings it—and this is through the recommendations of the Chief Medical Officer of Health.

Under definitions, "vehicle": we had under definitions of "vehicle", we had bicycles and tricycles. Now, I know on the Solomon Hochoy Highway you still have a definition of a moped. I cannot remember the last time I saw a moped operating in Trinidad, but up on the sign is—I do not know if everybody here knows what a moped is. [*Interruption*]

Sen. Ramnarine: Too young.

Hon. S. Cadiz: You have to google moped, Senator. So, again, let us bring the definitions into the 21st Century, and therefore, the definition of a "vehicle":

"…includes any motor vehicle, trailer or construction equipment;"

—and we have removed the definition from bicycles and tricycles. Of course, motorcycle goes into its own definition.

Madam President, Part II provides for the establishment, functions and powers of the Motor Vehicles Authority, and I just want to say that right now the Transport Commissioner, poor person, is responsible for all aspects of the licensing office. So he is plumber, electrician, financial controller, professional licensing officer, he is administrator, he is in charge of human resource, he is in charge of everything that goes on in that licensing office. That is because what we inherited and that is fine, but no longer can that system work. Therefore, the Motor Vehicles Authority will have a full-blown management structure which would include a board comprising nine persons. These persons will be taken from different disciplines, finance, law, automotive engineering, motor insurance, traffic engineer, business representative, et cetera. There will be a quorum under 14(8). There is a quorum for a meeting of the board of seven members. That has already been there, but we are looking at really and truly bringing in proper management into the licensing office.

Madam President, the licensing office at present takes in roughly $160 million in revenue a year. We feel that with a properly managed licensing authority, or Motor Vehicles Authority, that can move from $160 million to maybe upward of $300 million and not by raising any taxes, but just by ensuring that people do, in fact pay their fees, et cetera, et cetera. What we will do there also is eliminate as much of the—let me be careful how I say this—some of the incentive programmes that are currently operated in the licensing office. Okay? I will leave it at that. We can eliminate those other incentive programmes by putting in the proper systems in place, whereby all the money that is due to the Motor Vehicles Authority will, in fact, come to the Motor Vehicles Authority. For instance, where the Transport Commissioner is really and truly the head of the professional cadre of persons in the licensing office, that will now be replaced by a registrar of motor vehicles.

Part IV, again, it goes into detail of the powers and authorities and privileges of the registrar.

Part V—and I have to be careful of time here, Madam President. Again, it speaks to the operating expenses and remuneration fees, et cetera, of allowances set by the members of the board and the committees.

Part VI: this part deals with the issuance of a driver's license, and this again is a brand new aspect, a new way in which we are going to be able to control or how we manage our road system. A newly licensed driver should be accompanied by a driving supervisor, and a "driving supervisor" means:

> "…an experienced driver who is the holder of a valid driver's licence for a period of at least five years;
>
> 49(1)(b) the newly licensed driver shall not drive or operate the vehicle between the hours of midnight and 5 a.m."—subject to exceptions.

The reason for that is a newly licensed driver could be 17 years old, could be 70 years old. It does not matter. Going on to a six lane highway—well, three lanes in each direction—can be a very scary experience for anybody who has not been driving for years, and therefore, what we are saying is that the newly licensed drivers will have a year, a 12-month period, by which they will become very much accustomed to the road. The road system in Trinidad and Tobago in 2015 is not the road system of the 1960s and 1970s. It is very, very different, and therefore, we feel that where you could have learned to drive in some country area, your mother teaching you how to drive or your father teaching you how to drive—I was taught to drive in a Zephyr 6, but that is no longer the case. Okay? [*Interruption*]

Hon. Senator: That was a big car.

Hon. S. Cadiz: PF 1971 was the number.

Hon. Senator: "Whas a Zephyr?"

Hon. S. Cadiz: "Whas a Zephyr 6?" Oh, Lord.

So the novice drivers or newly licensed drivers will have some new regulations that they will be working with. One of the main things of the new driver is a zero tolerance on your alcohol level. No person with their first 12 months of driving will have any alcohol in their system. That is totally unacceptable, and whether you are 17 or whether you are 70, the same holds, zero tolerance. In fact, personally, I would have liked to see zero tolerance for any driver, but that is not the international norm. So we have those as major changes.

The issues of a learner driver or new driver submitting himself of course to the appropriate vision and test, and knowledge test on the rules of the road, et cetera, et cetera, which is basically what we are doing now, however we are changing the regulations. You are going to go into a room with a bank of computers and they will just tell you take whichever computer's available. You sit down there, you do your regulations and immediately you press enter, you will find out immediately whether you pass or you fail your regulations and off you go. So all this business about going in there and booking time to go and sit with a big book and a pen and people have to supervise like some big test and what have you, all of that has gone. That is out the window. We are going to be doing a computerized system. Again, that is going to eliminate some of the other incentive schemes in the licensing office, where if you know you cannot pass a regulations test because you are illiterate—for instance, I know people who are illiterate and therefore could not pass a regulations test, and yet still they had a heavy T license. So we are hoping by doing this all of that will be eliminated.

Of course, we go on to where we are talking about clause 60 where the Bill provides for penalty points in relation to particular offences. Again, the point system has to be introduced because if you are a chronic speeder, you are a chronic bad parker, you are a chronic bad driver, then we need to know about that, and therefore, when the police stop you they will be able to determine whether or not you are really and truly eligible to be on the road. We will do that by that point system, and therefore, when you achieve X amount of points, then the magistrate will then have to deal with you.

We are looking at the issue of the newly licensed driver. Originally, we had no more than two passengers in their car. Now that is an international best practice of where they say the distraction with a 17-year-old driver. When the car is full of, well in this case, teenagers going down the road, that they can in fact be distracted, and many jurisdictions have that as part of their law. We felt that in Trinidad and Tobago, based on how we live, how we operate, not everybody has a car, et cetera, et cetera, some new drivers might be in a position to drop their siblings to school, et cetera, et cetera, we eliminated that and we have removed that two passengers in the car.

One good thing for some of us, where we had 65 years. When you attain the age of 65, I think after every two years you have to go and renew your driving permit, that has now been moved to 70 years. So, there will be no reason for you to go back into the licensing office on your 75th birthday. You will just continue as you are going up to 70 years. [*Interruption*]

Sen. G. Singh: You mean 65th birthday.

Hon. S. Cadiz: Yes. Sorry, yes. Some jurisdictions have up to 80 years, Madam President, but we felt that 70 years, we will work with that.

There are some other—and simple issues. For instance, if your driving permit is going to expire in six months' time but you are leaving the jurisdiction in the morning to go away for two years, you can renew your driving permit one time rather than waiting for it to expire for when you come back. So simple things, but again this makes life a lot easier for everybody.

Part VII, this is to do with the RF ID plates. Again, the RF ID plates is radio frequency ID, and therefore, Madam President, again, the Motor Vehicles Authority will be the authority to issue license plates. Therefore, those license plates are going to be RF IDed which can be read from gantry equipment. It can be read by scanners that the police will have, or licensing officers, or Motor Vehicles Authority officers, and that gives the whole history. It gives the whole history of the vehicle, and again that is where the issue of stolen vehicles, et cetera, come in. You are not going to be able to be transferring license plates from one vehicle to the other, and therefore, we hope to eliminate vehicle thefts.

11.15 a.m.

Madam President, in 2009, 1,658 vehicles were registered stolen in this country—reported stolen, sorry. In 2014, that dropped to 742 and with the RF ID plates and the new Motor Vehicles Authority, that should be eliminated so we should see an end to vehicle theft in this country.

Clause 86 speaks to a community where we had "differently abled persons". On the Bill, after consultation, we have removed those words and the recommendation has come for "persons with a disability" and, therefore, that is the new terminology that we will be using, and that would be changed throughout the Bill. What we are looking at here also is the issue of when we are dealing with persons with disabilities, the parking permits. Okay.

Something as simple as a parking permit, you will now go to the Authority, you will now apply for your parking hanger, you will hang your parking hanger on your vehicle, and it will be an offence to park in an area designated for persons with a disability. It is an offence. It will be an offence under this Bill here. And therefore, again, we are looking at how we live in Trinidad and Tobago. You know, all of us have a right to certain privileges, et cetera, and therefore, we have that as part and parcel of this Bill. So, when you see able-bodied people parking in a supermarket car park that has been identified for persons with disabilities, a police officer or a traffic warden can come up and actually issue a very hefty fine for that person. So your groceries will no longer cost you $500, it will probably cost you about $2,000 by not respecting the law. [*Desk thumping*]

The issue of seat belts and—Madam President, how much more time do I have? [*Interruption*]

Sen. Al-Rawi: Stopping at 11.41.

Hon. Senator: "Yuh ha time man."

Hon. S. Cadiz: Part IX speaks to the issue of the wearing of seat belts and right now the legislation covers for driver and front passenger only. All vehicles today have seat belts fitted for all passengers and, therefore, this Bill speaks for all passengers to be belted in the vehicle, that goes also for heavy T drivers. Right now, heavy T drivers, for some unknown reason, by law, are not required to wear seat belts. Police are not required to wear seat belts. Drivers of emergency vehicles are not required to wear seat belts. I have no idea why that is so because there is no practical reason for people not to be wearing seat belts. Seat belts save lives, very, very simple. So Part IX speaks to that.

And therefore, we have that plus the issue of children under a certain age being secured in a certified car seat, not in the front seat either. So we hope to eliminate this issue. "Yuh going down the road, yuh see the parents in the front seat, the driver and the passenger side, and there is the child in-between the two bucket seats jumping back and forth from the back seat into the front, et cetera." Parents do not understand the risk that they are putting their children, and therefore, all passengers will be secured in the vehicle.

We go down now to clauses 118, 119, 120, which is a Vehicle Trader Registration Certificate. How many times have we heard people being gypped? People going in reading a classified ad, seeing a phone number on a lamp post selling motor cars. And innocent people go, they think this is the way in which business is done. They go and they put down a deposit, 30, 40. A lady came to me one day, $60,000 deposit and cannot find the individual. So what we are saying here, if you are in the business of selling second-hand vehicles, whether it is a foreign-used import or whether you are in the business of trading in locally-used vehicles, you have to have a Vehicle Trader Registration Certificate otherwise the vehicle will not be transferred.

And through proper public awareness, et cetera, we will ensure that when you are going to buy a car, the first thing that you are asking the person for is, "Where is your vehicle trader registration? I want to see it"?. So at least there is some level of comfort and security whereby you are not going be gypped. Of course, the issue of stolen vehicles being transferred by persons who are not vehicle traders, we hope, again, to eliminate the trading of stolen vehicles.

We continue in Part X. Well, again, that also speaks of the issue of vehicle traders: rental vehicles and companies renting vehicles. There are companies that rent vehicles and these vehicles are not registered as rental vehicles. Their insurance does not cover them and therefore, an innocent person go in and the fella "tell yuh, ah hah no cars, yuh know, but hold on, ah could rent yuh this one", and this is his wife's car or somebody else's car. He just gives you the key, there is no rental contract. The innocent person does not realize that if you do not have a proper rental contract and the car is not registered as a rental vehicle, and therefore the insurance policy on that car does not cater for a rental vehicle, if there is an accident, you go home not smiling, and therefore that is the major problem in Trinidad.

So rental companies, for instance, will have to be registered as a full-blown rental company and therefore, issues of contract and insurance—for instance, when the police stops you and they see that this is a rental vehicle, you are supposed to show them the rental contract. Because some rental companies tell "yuh doh worry to sign up nothing nah, pay meh in cash and go down the road". And therefore, they are compromising the tax man by not paying the proper taxes, et cetera, on that particular sale, whether it is VAT or what have you. So these are things that, again, we are bringing into the 21st Century and we are trying as much as possible to close a lot of the loopholes that we see in the system.

Part XII speaks to certification operation of fleet management facilities. And again, you have some very, very large fleet management companies in Trinidad, whether they are trucking companies, whether they are taxi companies or whatever, and therefore, instead of having to haul 100, 200 trucks down to the Licensing Office, there is provision for the Licensing Office to come to your particular facilities and to do your full inspection, et cetera, to do that.

Again, when you have new car dealers, when we talk about that, here it is that we are in April and 20,000 vehicles have already been registered, can you imagine the traffic going down to the Licencing Office to get these vehicles registered? So what will happen is that new car dealers will be able to inform the Motor Vehicles Authority, "I have 20 vehicles to be registered this week", they send an officer up with all the paperwork, et cetera, and therefore, we can do it at the particular site.

We will be bringing back on stream the private vehicle inspection centres and we hope to be able to reinvigorate them, we hope to reinvent the services that they were supposed to be providing, and really and truly getting that back onstream. Again, eliminating the constant traffic in and out of Wrightson Road and San Fernando.

Part XIV speaks, again, to hired vehicles. Again, we have to really and truly look at what we are doing with hired vehicles. We are still licensing taxis for four people. Really and truly, in this day and age, you are licensing a car to carry four people. You know, I am not saying that we are going to eliminate that but we really and truly have to look—what is this public transport system that we are doing? What is this route taxi system? What is the maxi-taxi system? You have maxi-taxis now with the same frame, the same basic chassis of where you are licensing a 25-seater; redesigning the cabs, you can actually fit 30 people in it.

And therefore, if we can increase the volume of people per vehicle without increasing, for instance, by any real stretch, the outer dimensions, et cetera, that is the way in which we can start eliminating some of the traffic that we have, by making it more efficient in using higher capacity vehicles. I see a lot of the route taxis now going for seven persons. So, again, it is started. Again, issues of the private school bus, ownership permit, again, these are things that are coming into the mainstream. The school bus people have been clamouring for that. So all of that is going to be brought into the mainstream.

The issue in Part XV, we speak to driving schools. Madam President, anybody could be a driving instructor. Even I could be a driving instructor, imagine that. [*Crosstalk*] Well, we would not have that, Senator. All right. But the fact is, you are teaching people about driving and about road safety, some people do not have the luxury of driving their father's car or whatever it is, you know, and learning in a country road. They come from an urban area or a city area and they want to learn to drive and these driving instructors, there is no certification of driving instructors, and we will be working with the hon. Senator, the Minister of Tertiary Education and Skills Training, to build that capacity for driving instructors for then be able to go and get certified in one of the facilities whereby they will be a certified driving instructor. Again, the horror stories, and I would not go into any gender issues, but there is a certain gender that, sometimes, it is easier to get a driving licence than the other. All of that is old archaic nonsense that has to be eliminated and therefore, there will be proper driving.

Well, we spoke about the RF ID and, again, when we talk in Part XVI about other offences when it comes to, like, for instance, the red-light camera, et cetera, et cetera, all of that is going to be part of it.

In the Part XVII, the alcohol and drug-related offences; again, very, very critical to a safe, driving environment, extremely critical. Madam President, the new fees, they were in the Finance Act brought earlier to the Lower House, that had an effect whereby over Carnival, which, as we know, is a period of festivities, et cetera, there were no fatalities on the Carnival weekend—sorry, no road fatalities on the Carnival

weekend, and that is an absolute—I do not think that that has happened before because I know in 2014, we did have one fatality. But here it is, we increased the fines from $15,000 to $22,000, from $8,000 to $15,000, and in looking at the papers, you see the magistrates enforcing the law. And if people cannot hear, they are going to feel and the best way for people to feel is in their pockets. Therefore, if we can keep that going like that, then we will, in fact, go below 100 this year when it comes to road fatalities. So the fees, the increase in the fines, et cetera, are all there. I am not going to go in clause by clause, but they are all there.

The issue of alcohol concentration in your breath. No person operating a public vehicle can have any alcohol in their system. So whether it is a PTSC bus, whether you are driving a Government-owned vehicle or agency vehicle, if it is a Ministry vehicle, taxis for hire, there will be zero alcohol level. There will be no alcohol in your system if you are a hired vehicle, if you are a public service vehicle. The time for this nonsense must stop. If you jump in a taxi, you expect that the taxi driver is going to be stone-cold sober, but how are you going to know? So it is going to be an offence for that.

There are issues that we had—we had some troubles with this one which is, again, the chartered vehicles and where we are saying that there is no alcohol, for instance, there is no open container in a vehicle. Now, the no-open container law in the vehicle means that in a private vehicle, you are not allowed to have an open container. The best way to describe an open container, you see people driving down the road and they have a beer in their hand, that is an open container and therefore we are eliminating that. Okay. If you want to go and enjoy yourself, you go, you park up your car, you do what you have to do. Okay? Get somebody else to drive you home or go with somebody else.

But what happens when we have, for instance, like the chartered vehicles and there are chartered vehicles. They are what we know as the party bus or fete bus. You see them mainly on weekends going to excursions and what have you.

What we are saying is that we will have a demarcation line in that bus where there will be no alcohol at all beyond that line. And, again, the Licencing Office will determine that. But the other issue is that of zero tolerance for public vehicles and hired vehicles.

11.30 a.m.

Part XVIII, again, we speak to the issue of fixed penalties. Right now, if you get caught in Scarborough and you are charged in Scarborough court for speeding you have to go back to Scarborough. If you want to pay the fine, if you forget to pay the ticket and you come home, you have to go back to Scarborough to go and pay the

ticket. What we are saying is that in any jurisdiction you will be allowed to go and pay. Fixed penalty tickets will be allowed to be paid in any jurisdiction. Again, there is some background work that will have to be done for that but we do not see that as being an issue, at least the management of that.

Clause 19, again, speaks to the courts to convict for various driving offences and to further suspend the offender from driving, pending the determination of charges. Again, suspension or revocation of your licence, I think, is a very serious issue and I think the bad driving that you are seeing now in Trinidad and Tobago now, we hope will be a thing of the past once this Bill is proclaimed.

Like everything else, Madam President, with the Authority there will be an appeals committee where if you are refused for whatever reason there will be an appeals committee that will address your issues and, therefore, right now the appeals can only be made to the Transport Commissioner and that is one person. Therefore, we are changing that whereby it will be a committee that will review your particular situation.

Part XXI, again is fairly general. Part XXII, again, it speaks to the recovery of damage, for instance to roads, bridges, traffic lights, et cetera. I do not know in any Ministry, especially the Ministry of Works or the City Corporation of Port of Spain, that if you drive and "lick down" a road sign, who pays for it? What we are saying is that your insurance will be informed that this vehicle did in fact damage state property and, therefore, you would expect a claim on the insurance for it. These are things, again, that really and truly we say it is a revolutionary Bill. It really and truly changes the way in which we do business here in Trinidad and Tobago. The other parts here speak mainly to various sizes of electric vehicles, et cetera, et cetera.

Simple things like diplomatic plates, since 1962 the diplomatic community has been asking for diplomatic plates and that is being approved and we will be issuing those diplomatic plates very shortly to those who have been approved by the Ministry of Foreign Affairs.

Madam President, in winding up, we have a Bill here that speaks to safety. [*Interruption*]

Sen. Robinson-Regis: Minister, would you give way? I just want to ask one question, please. I know you have mentioned quite a number of innovations and so in this Bill, could you give us an idea of what will be the system for monitoring some of these things? You have mentioned a number of things but we have not heard anything much about the mechanism for monitoring.

Hon. S. Cadiz: The Motor Vehicles Authority will be a new business for Trinidad and Tobago. So what is now known as the Licensing Authority will be transformed into the Motor Vehicles Authority. It will be based on the Nova Scotia model. In 2007, I believe, the then administration determined that the Nova Scotia model fits Trinidad because of the size of the population, the vehicle population and the population of the country itself, which is a good model. There is nothing wrong with the Nova Scotia model and that is the model that we are going to be using, which really and truly computerizes the entire system.

It changes the way we have CSRs. For instance, when you go into a Motor Vehicles Authority office you will be going to a CSR that will be able to transact all businesses, bar maybe one or two issues. But all business of the Motor Vehicles Authority will be dealt with, for instance, with that one CSR. You do not have to then leave that line, go in another line and then go in a third line and the fourth line is the cashier. All of that will be eliminated. There will be a one stop person that you will be going to. Again, fully computerized and, therefore, each location will be able to speak to the other locations knowing what the business of the day was, et cetera, et cetera. By changing the structure of what is known as the Licensing Office now, by putting in a proper structure where, again, there is the issue of the vehicles licensing, which is the real part. Then there is finance management and procurement and a whole host of other areas which would be of concern. All of that is going to be changed.

We see a Motor Vehicles Authority that again will work. It will generate additional revenue for the country. It will put Trinidad and Tobago at rest that you do not have to work yourself up for about a week or a month knowing that you have to go in the Licensing Office and a lot of the incentives again, the illegal incentive programmes, that operate in the Licensing Office, will be a thing of the past. So, better management, better service to the citizen, better revenue collection and an all-round much better service. So, with those few words, Madam President, I beg to move. [*Desk thumping*]

Question proposed.

Madam President: Senators wishing to join the debate may do so at this time.

Sen. Faris Al-Rawi: Thank you, Madam President. Perhaps, I should not make this reflection but may I compliment you on your attire today, Madam President? It is very lovely to see you dressed the way you are and I want to express my compliment to you, Madam President. Thank you. And, no, I do not know that you are living in San Fernando, but I think we must give compliments where they are due.

Madam President, it gives me great pleasure to stand to make as best a contribution as I can in the very limited space of one hour, to a Bill as important as this. The hon. Minister is not the first Minister with responsibility for this area of law that this Government has had and so he has inherited quite a bit of work coming forward.

Indeed, the intention to create a Motor Vehicles Authority is not novel or unique to this particular Government. As the hon. Minister indicated in his wrap up a short while ago, the Motor Vehicles Authority was one of the core conceptual anchors of a PNM administration, the last PNM administration, because it is something that could be a sincere fillip to many issues in Trinidad and Tobago.

Suffice it to say, Madam President, the one piece of law that you are guaranteed is going to be amended every single budget and every single Finance Act which flows from the budget is the motor vehicle and road traffic laws of our country. It is, after all, that piece of legislation which tells us what fines and penalties for the most used asset of the State is, that is, driving on the road. It is through that mechanism that we get to school, that we go to work, that we go for enjoyment, that we go to celebrate at our houses of worship. It is through that mechanism that we interact with each other. It is through that mechanism that we gain happiness. But it is regrettably also that mechanism where we see incidents of road rage leading to murder, at times, most regrettably. So, the regulation of the laws as to how we interact and use this primary state asset is so critical.

In fact, Madam President, it is quite noteworthy that the Bill intercepts with 20 pieces of legislation, automatically. Before you even start off, you are affecting the Motor Vehicles and Road Traffic Act, the Motor Vehicles Insurance (Third-Party Risks) Act, the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, the Maxi-Taxi Act, Customs Act, State Liability and Proceedings Act, Police Service Act, Special Reserve Police Act, Highways Act, Cohabitational Relationships Act, the Income Tax Act, the Corporation Tax Act, the Value Added Tax Act, Oaths Act, Exchequer and Audit Act, Guarantee of Loans (Statutory Authorities) Act, the Medical Board Act, the Municipal Corporations Act, Standards Act, Summary Courts Act; that was provided to us in the Bill Essentials. It also articulates very importantly with the Electronic Transactions Act and the Data Protection Act.

Now, the hon. Minister has a very difficult task with a Bill like this. This Bill is a radical piece of law. This Bill is 22 parts long, 272 clauses large, 11 Schedules, 168 pages of law itself, 22 pages of introductory law, giving you 190

pages. If we were to take 272 clauses and divide it by 60 minutes, we cannot do the work that is required to be done here. And, regrettably, the Parliament is being invited to consider this law in a very impractical and inefficient manner.

I wish to draw the Parliament's attention to the manner in which we as a Parliament have engaged in dealing with laws like the insurance law, dealing with laws like the securities laws, dealing with laws like the Planning and Facilitation Bills. What the Parliament does efficiently there, Madam President, is to divide the work of the committee into populated clauses, concepts and ideals to be considered together with the technocrats.

Because, notwithstanding the hon. Minister's statement that there has been wide consultation, I beg to differ with that point of view. I beg to differ, hon. Minister, because the Law Association of Trinidad and Tobago could not possibly have given you the blessings for this Bill. [*Desk thumping*] Let me say why. The Law Association could not be current in its consideration of this law, and I want to give you two very immediate reasons, hon. Minister. Let me just pull it out before I get into the heart of the contribution. Let us look, hon. Minister, to the provisions as to the enforcement with respect to certain aspects of fines. Let us look to clause 75—I would go for three—of the Bill. Clause 75 of the Bill, which is to be found on page 42, at subclause (7) says:

> "A vehicle shall not be registered in the name of a person who is under the age of seventeen years."

We do know that ownership of that type under 18 years of age is to make it settled property or settled land at law and there are very specific considerations in law which must be entertained there.

Madam President, when we look to the positions to deal with the collection of moneys by way of the provisions of clause 204, let us look at clause 204 of the Bill. Clause 204 of the Bill, at page 105 says, let us look at subclauses (13) and (14):

> "Where differences arise between a person claiming compensation under subsection (13) and the Authority as to whether the person is entitled to compensation…"

—such amounts, such difference, et cetera.

> "(a) if the amount of the compensation…does not exceed fifteen thousand dollars, by a Magistrate; and
>
> (b) if the amount of the compensation exceeds fifteen thousand dollars, by a Judge of the Supreme Court,"

Surely the hon. Minister knows that the Government amended that law in the Finance Bill, and that the Law Association objected to those limits, saying that we would be creating a mammoth amount of work for the Magistracy in raising the limits well beyond $15,000 and moving away from the High Court. So that certainly could not have been a clause which the Law Association gave its blessings to. [*Desk thumping*] Let us look to something a little bit more important, Madam President. Let us look to clause 221.

11.45 a.m.

Let us look at—if I had the right clause, clause 215 at page 115, listen to this one, hon. Members:

"(1) Where, owing to the presence of a vehicle on a road, or highway, an accident occurs whereby injury or damage is caused to any person, animal or property, the driver of such vehicle shall immediately stop-

(a) if any person has been injured in the accident, the driver shall render such person aid, and if the person wishes to be taken to hospital or to a doctor, or is unconscious, convey or cause to be conveyed the injured person without delay to the nearest hospital or to a doctor;

(2) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine of five thousand dollars."

Really, hon. Minister? That clause is to redefine the concepts of liability and insurance and indemnities, and to make every person who comes across an animal or person or property that is damaged, and if the person is unconscious, the Good Samaritan clause which the French referred to—Do you remember when Princess Diana was killed in France they referred to the Good Samaritan clause, and they were looking for the driver, because there was a law which required the Good Samaritan to come into effect to lend assistance?

Do we really want to impose upon Trinidad and Tobago an automatic responsibility that you must get out of our car, somebody has a broken neck or back, and you are liable to an offence if you do not take this person to hospital immediately? I do not think that the best bone of any lawyer considering that equation properly could have agreed to that. I see Sen. Hadeed squirming in his seat, as a man with insurance law background. This is a very serious consequence, hon. Minister. [*Interruption*] Pardon?

Hon. Senator: It is potential liability.

Sen. F. Al-Rawi: It is not potential liability. It is actual liability. You are telling somebody to carry an unconscious person to hospital, and when the liability occurs, what is the consequence, Madam President?

I just started off with a reflection on those three clauses because, Madam President, I have read this Bill. It is architectural—listen, let me rewind. The intention of the law is honourable. We do need, for a number of issues that I will come to in a little while, we do need to revise our laws considerably. The concept of the Motor Vehicles Authority is a sincere one. When you go back to the PNM's articulation of the Motor Vehicles Authority, it was designed, the software for its implementation was purchased. The Motor Vehicles Authority's location was identified at Mount Hope. The Government changed in 2010. The UNC Government came in. It promptly put the software into a drawer, nothing happened with it. The Government of Canada through Saskatchewan which was dealing with the RF plates and identification issues, had to be pushed off. You then saw the Motor Vehicles Authority moved, mysteriously, from the Mount Hope location, where the Bill for its construction was conservatively estimated at around $40 million to $80million, depending upon the de minimis or de maximis output. It was then moved to Frederick Settlement, off the highway, and it cost us under SIS, I believe it was, I could be wrong, approximately $240 million to build. We have heard nothing from the hon. Minister about that.

He has not reflected upon the fact that UNC, when it was in Opposition, frightened public servants to say that all of you working in the transportation authority are going to be fired, and public servants should be aware, and people are going to be put out of living. The same provisions in this law here, but you are not hearing a PNM Opposition say to public servants to be afraid.

You see, under the UNC philosophy, you could say anything and is no responsibility for it. You could have a Prime Minister stand on a platform and say, for instance, remuneration for Members of Parliament is a PNM idea, and never tell the people that the Government of Trinidad and Tobago brought amending legislation for Members of Parliament and the Judiciary. It was passed in the House of Representatives with the Prime Minister's support, but no, it is the Opposition's idea. [*Desk thumping*]

When you compare it in the context of this Bill, Madam President, what you are seeing is, that the Minister does not even speak to what he inherited. He does not speak to the wastage of public assets. He does not speak to the relationship between the Government of Trinidad and Tobago and the Government of Canada, with respect to the RF identification tags and plates, which are sitting in a drawer in the Ministry for years, Madam President. Then he says, this Bill has had wide consultation. It is good law, then you come across a clause like 215. Madam President, there are a lot more clauses than that in this Bill; a lot more clauses than that.

Let us look to architecture. I started off by saying that this kind of legislation, this particular law that we are seeking to amend, the current law is the one that is modified every single year. We raise fines. We impose penalties and offences, be it drunk driving, careless driving, seat belts, whatever it may be. Well, then why are we adopting architecturally, in terms of legislative drafting, a mechanism by which we have to dig to find offences? We crossed this hurdle already.

In the securities laws, by way of example, we took every offence and we put it into a schedule where you could find each offence at the back of the laws, across it would be a table which would identify what the imprisonment term would be or the conviction fine would be, and then that allows for ease of manipulation and amendment from year to year. It is not something that we have not done before. It is something which the hon. Minister, had he been here in the Chamber, could probably have looked at, to decide how we develop the laws of Trinidad and Tobago and where we go.

Because I am sure that the Minister of National Security in his contribution will tell Trinidad and Tobago, that the management of our traffic situation is the most important thing to managing crimes in Trinidad and Tobago because every murder, every kidnapping, every theft is done by way of a car. A man was shot dead in front of his seven-year-old son, his wife was injured, and the people—on CCTV camera—were seen jumping on to a motor cycle to escape.

So it is by way of management of our detection mechanisms, which can be gained from the introduction of RF frequency plates and electronic tag identifiers, that we can have a dramatic improvement in our detection and conviction rates, as it relates to crime and how it articulates here. I say that, hon. Minister, because I am sure you would agree that the reason why investigation of homicide leading to detection and conviction has dropped, for instance, from 35 per cent in 2010 to 3 per cent in 2015, it is because we do not have witnesses. Witnesses do not feel a sense of confidence to come forward.

Therefore, it would have been very useful for the hon. Minister to have spoken to why this Government has allowed that detection and conviction rates to fall so dramatically in the period 2010 to 2015, when we have the software already purchased for the RF plates since 2007, Madam President, [*Desk thumping*] sitting in a drawer, much like the causeway to Chaguaramas as an approved plan for the last six years, has been sitting in the Ministry of Works and Infrastructure drawer. [*Desk thumping*] That is not a novel plan.

So accountability is critical, Madam President, but the hon. Minister has not spoken to the three-fifths majority aspect of this Bill. He has not spoken to the intrusion on rights enshrined in the Constitution, be they by way of liberty, be they by way of property. He has not spoken to the due process considerations. He has not spoken to the reasonableness by way of proportionality consideration, under section 13 of the Constitution. It is almost as if he does not even respect, most respectfully, what a Parliament is for, what a Senate is for. [*Desk thumping*]

Are we just simply to feel good and have "ah lil" generalized chat on the law, and 90 per cent of the parliamentarians may not have digested that law just yet? Surely, Madam President, it would be efficient and useful for the Parliament to have taken this to a joint select committee. Surely, the Minister of Finance and the Economy alone would be able to testify, as the Leader of Government Business can, as to the usefulness of joint select committees. I say that with the track record of the PNM in this 10th Parliament, being that we have supported by way of affirmative vote, 94 per cent of the legislation that has come to the Parliament. And, yes, we gave the Government no end of pressure on the procurement laws, because they were, in our humble opinion, breaching every aspect of procurement, whilst in our opinion, developing the laws.

Madam President, where does the Minister speak to the status of proclamation of the Electronic Transactions Act? Where does the Minister speak to the Data Protection Act? We are creating registers for public consumption. There is no reflection on the consumer protection aspects of the law. Where has the hon. Minister spoken to the liability considerations? Let me give you another example. This Bill is architecturally structured upon the use of a delegated authority system. We are creating a Motor Vehicles Authority. There is a board of directors. The board of directors has committees that go to work, and the committee can second and bring in any person to exercise any of the delegated functions given to it. We create an indemnity for Members of the boards of directors. There is no indemnity for members of the committee acting with good faith. There is no indemnity for the appeals committee acting with good faith.

So how do we balance that? Was it just something that the Minister forgot about? Is it something that ought to be factored so you get the right kind of talent and consideration forward? Did the hon. Minister speak even to the fact that in confirming a new system, and in giving motor vehicle enforcement officers the powers of arrest and immunities that they enjoy in the proposed law, that we are not speaking to the liabilities which they must have as well? Does the Minister remember the debate that we had on the soldier Bill, hon. Minister? Does the Minister remember that that legislation as proposed then, did not see the light of day, because the balance between privileges of the police, and liabilities of the police had to be factored?

So, when we give under a new system, the Motor Vehicles Authority system, the power and privileges of the police to motor vehicle enforcement officers, who do not fall under the purview of the Police Commissioner, in the same manner as SRPs or estate constables or police in general, how are we balancing that

constitutional safeguard that the Police Service Commission enjoys? Those are serious issues, and as much as the feel-good aspect that the Minister brings forward is enjoyable, Minister, you have fallen short of the mark, and I do not say that you personally, I mean the exercise which you we have undertaken here, [*Desk thumping*] has fallen short of the mark.

The Minister is an honourable man. I am sure he has good intentions, but the fact is, in digesting 272 clauses in 60 minutes of talk time, there is only so much you can do. You can only touch something and move along. Has the Minister factored the harmony between the Planning and Facilitation Development Bill to be found in clause 204(6), of the Bill? We know that we put in under the Planning and Facilitation Development Bill, protection for certain types of trees. That does not seem to be factored here in laws which we have passed already. Has the Minister factored the harmony in the procurement legislation? No, he has not, because the reports of the procurement cycles under the financial provisions of the Bill do not come up to muster what we have adopted as a Parliament in the procurement laws.

12.00 noon

What about the tenure of the members of the appeal committee? What about the interrelationship between the CPO and the Minister providing discretionary salaries? We know that certain posts require better pay. We see, for instance, the CFO of Caribbean Airlines—a very important multinational industry in Trinidad and Tobago—the housing allowance of the CFO of CAL is three times the salary of a Member of Parliament. So, it is one thing to stand up glibly and say: "Oh, we parliamentarians will do something. We are not big people party." Well, Madam President, when I look across to some of my colleagues in the UNC, all I see is big people—[*Desk thumping*] mansions, positions. [*Desk thumping*] I do not begrudge them for it. This society should never begrudge success.

The United States of America, for instance, is very famous for encouraging people to be entrepreneurs and to work honestly and to work hard, but you ought not to denigrate and take away from hard work or responsibility or recognize [*Desk thumping*] the incentive to attract talent, and to encourage people to come out of private sector and to come in to public sector in an appropriately balanced mechanism. It is disingenuous for Heads of State to speak that way. [*Desk thumping*] [*Interruption*]

Sen. Cudjoe: Reckless!

Sen. F. Al-Rawi: Madam President, my learned colleague, Sen. Shamfa Cudjoe, says "reckless", perhaps I ought not to go that far just yet.

Madam President, everywhere in the Bill—from the definition section down to the appeal tribunal and the transitional sections—needs to be looked at in greater detail. When we look to the issue of the cavalier use of the word "person" versus "corporate entity" I wonder if, for instance, the language of the Bill was properly thought out. Let us look, Madam President, to the concept of the fleet manager. Let us look to clause 144 and compare it against clause 150 of the Bill. Clause 144 of the Bill, as it is brought before us says—and that is to be found at page 76:

"A person shall not operate a Fleet Management Facility..."

Now, when I read that, as I saw the word "person" used throughout the Bill, I went to the Interpretation Act. A person can include a corporate entity, et cetera, but when we are disqualifying a person under this Bill, it says if that person is adjudged a bankrupt, well a corporate entity cannot be adjudged a bankrupt. It can go into liquidation or voluntarily winding up itself, and usually you make the provision for circumstances where there is an amalgamation and you are not dealing with something which is a lack of liquidity or insolvency. So, the legislation, when you try to interpret it by the use of terminology in it, lends you to the belief that "person" is an individual and not a corporation, notwithstanding the generalized use of person as it prevails in the Interpretation Act.

Let us look, Madam President, to a very curious example that I saw straight through with clause 138 and compare it to clause 157. Look at clause 138! Clause 138 of the Bill says:

"Subject to section 140, where the holder of a Vehicle Rental Agency Registration Certificate fails to complete any of the defects..."

But how do you complete a defect, Madam President?

Let us look instead to the expression used in clause 157. Clause 157 says:

"Subject to section 159 where the holder of a Vehicle Inspection Centre Registration Certificate fails to complete any of the remedial works specified..."

Well that makes sense, but the first term that I read to you in clause 138, that the Minister is so proud about, passed through the House of Representatives for months and would not listen to the Opposition saying: "Pay attention to the Bill, put it to a select committee". He comes here today and repeats things which just do not make sense, because you cannot complete a defect unless you want to make it worse. You could remedy a defect, I am sure. That language used in clause 138 is only one of the examples where it appears, Madam President.

There are cross-reference examples, for instance, where we cross reference the laws that just do not cross reference what it surely intends. The sectional cross references throughout the Bill are wrong, and it leads me to believe that there has not been a careful consideration. This is not to be pejorative or to express any bad will to the very hard-working public servants that would have brought forward this piece of law, including those legislative drafters at the CPC's office.

But what happens—and every lawyer knows this—is when you produce something and you read it on screen, you tend not to pick up the defects that you see, and because you are too close to the object, the thing which you have produced, you tend not to see it in terms of the distance where you would spot things.

Very often attorneys use the mechanism of consulting other attorneys to have a second review over something. What I am saying is, as noble as this intention is, it is clear that this Bill requires a second sight. [*Desk thumping*] That is what I am saying. I am not saying that the intention is wrong, hon. Minister. I am not saying that the PNM does not want to amend the laws. I mean, we started with the idea of a motor vehicle authority ourselves. The UNC, irresponsible as it is or was then, frightened people for different reasons—for political reasons—we will not do that. But what I am saying is, if you are going to be repealing the Motor Vehicles and Road Traffic Act, if you are going to be introducing significant concepts, this Bill does not pass muster. [*Desk thumping*] Clause 215 alone demonstrates that. Clause 114 alone demonstrates that, because it is incongruous with laws which we have passed under this Government itself. What does the LRC do, Madam President? What? Are we just ticking boxes? [*Interruption*]

Sen. Robinson-Regis.: Yes.

Sen. F. Al-Rawi: No explanation as to what is. We have procurement laws, but we are not going to proclaim it. We have electronic transactions laws, but we are not proclaiming it. We have data protection laws, but we are not proclaiming it. Well, why did we move as a Parliament in 2011 to pass those two latter pieces of law? Why? [*Interruption*]

Sen. Robinson-Regis: Just to say so.

Sen. F. Al-Rawi: We came as a Parliament and we amended speed detection radar guns, now repeated in this Bill, passed in the House of Representatives well, what about the status of that? What about the pilot project outside the Parliament where you take the red-light stoppage as we have this Bill contemplates? Well, do we want to really confine it only to traffic lights? Did the hon. Minister not speak

to electronic arches on the highway that could check your tags as you go alone? Must it be at a stop sign only? Do you want to be technologically specific that way and find out some smart lawyer rose up and says: "Hold on, the law talks about it at a traffic light, it does not talk about it on a speed arch". Well, that can happen right now under this Bill.

Madam President, what about cars for hire? Is it not this Government's stated policy that there is to be a class of driver called PH drivers? We have a whole section in the law here talking about cars for hire and the Minister comes and does not have the honesty intellectually, because he is an honest man, I am sure, hon. Member. The Minister does not come forward to say, "Well, you know, that idea which we had about PH drivers, you know, it is dead. We got it wrong?" No, we bring a law that completely excludes PH drivers. Do you know why, Madam President?—because the whole concept of it was ridiculous.

No insurance company in Trinidad and Tobago would have given the insurance coverage required for hauling passengers on a hired basis while operating a private vehicle. The Government must have known that when it spent months prosecuting that, a year prosecuting it, but this Minister comes and says absolutely nothing—hunky-dory, feel good, solve every problem, but no accountability.

What about the procurement accountability that the Bill contemplates and we have not factored the Exchequer and Audit Act? Why are we establishing a financial accountability section in this Bill that falls short of international best standards? I have constantly referred to the Exchequer and Audit Act of Jamaica as a classic piece of law; an old piece of law, amended I believe it was in 2007 in sections 131 continuing, which introduced the kinds of standards that we should have.

Madam President, how about the concept of the harmony that supposed to exist with the ASYCUDA system? We hear this Government time and again speaking about the strides that the country has made in relation to its Single Electronic Window. Why then in clause 80 of the Bill, dealing with the information to be provided to the Motor Vehicles Authority when the ASYCUDA system and the declarations to customs could harmonize all of that? Why create a third route, Madam President? Why? That does not make sense in terms of the advances we have made as a Parliament or as a country.

Madam President, how about straight throughout the Bill where we hear about a 30-day limit. "You shall 30 days before the expiry of X event go and do something." What happens if you do not do it within 30 days? We know that there is a contemplation as to what happens when you are late only with respect to your driver's licence, but no other sanction is applied if you miss your 30-day marker before expiry. So what are we going to do in terms of interpreting the law? Is there a penalty to be prescribed for late coming to encourage filing on time or renewals on time? Is it that? Is there a recertification route? Why is the law silent on that?

The Validation Certificate: under clause 94 of the Bill, the Validation Certificate is supposed to be stuck on as a sticker to the plate. Why? It is an offence now to have the Validation Certificate, but you are going to put a sticker onto a plate. Would it not be more sensible to affix a sticker onto the windshield where there is less chance of mutilation or loss or damage and the incursion of an offence? [*Desk thumping*]

How about clause 111, which laudably contemplates the international usage for disability? Should we not as other jurisdictions have in clause 111 also contemplate making it an offence for the impersonation of a disability sign for creating a forgery of it? Should it not also be that to discourage anybody attempting to use it? I mean, it is a very difficult concept when we look at our ramps and our roadways and our articulation for persons who live with disabilities to understand how unfriendly our environment is.

The High Court of Justice had to be sued to create a ramp for the disabled. [*Crosstalk*] they did. They finally finished it. Now, there is only left what we call the rocky path to justice. If you ascend the stairs of the High Court on the side, the pavement has two-inch stones sticking out of it, jagged as they are, right at the bottom of the landing of the steps. Every time I cross the steps I think of the many letters I have written to say: "Well, why would you want to accept liability for tripping somebody at the Hall of Justice?" I am at a loss for that.

Madam President, how come clause 69 of the Bill only speaks to the Caricom exception? Are we not under individual requirements as a State to also look to other Commonwealth jurisdictions beyond Caricom? That has to do with accepting drivers' licences from other areas. Could it not very well be that we have a person living in the United Kingdom or in Australia, India with 30 years driving experience who are not the holder of an international permit but who must now come and suffer all of the restrictions that our Bill contemplates? How do we factor their driving experience and the comity and the reciprocity under international treaty that we ought to factor? I do not think that that is thought out clearly, Madam President.

12.15 p.m.

Madam President, how about the exclusion that public services in clause 115 are not required to observe the restraints for children? Why? Why not? Is it not reasonable to contemplate, particularly with the defined term in that clause, that the public service should also abide by this law? Madam President, how about looking to the prescription in section 177, where you make it an offence at law to

have televisions in maxi-taxis. Why? I see that there may be a legitimate legislative aim in making sure you do not have accidents, but it is an established mechanism all over the world that maxi-taxis, or public transportation services, have the benefit of using televisions for advertising purposes; they get some degree of subsidy.

When people advertise and they have screens that are available on the inside, advertising, entrepreneurship and innovation, in terms of creating better environments and routes, should be permitted. There are so many of our maxi-taxis that have this but the exception is not there. How about clause 202, traffic signs? Are we really comfortable in making sure that the law, as it relates to ownership and property of traffic signs, should only be the Motor Vehicles Authority? Do they have the capacity to deal with the engineering works required? Should it be the Ministry of Works and Infrastructure that should handle that? I can understand the compensation aspects for damages to property going to the Motor Vehicles Authority, but whose obligation is it to put this up?

Madam President, how about looking to clause 70? Clause 70 says—and if we look at it—just allow me to find it, Madam President. Clause 70 is somewhere around page 39. Yes, it is, page 39, clause 70. So, clause 70 is the requirements for visiting drivers:

> "The holder of a…driver's"—permit—"issued in a country listed in Part A of the Sixth Schedule…
>
> (2) A constable…may…require"—him—"to produce…A person who fails to comply with this section commits an offence…"

Why is it good enough for Trinidad and Tobago?—a person who, without lawful excuse, fails to produce it, and here in this clause it says if you do not have it you are automatically liable. Why is there no affect on the mental intention to breach the law? Are citizens of the Caricom or persons with international driving licences to be treated in dissimilar circumstances although similarly situated? In other words then, the exception in the Constitution that if you are in similar circumstances you ought to be treated similarly now being exercised by derogating from the right. Is that good enough?

Is it not more realistic that visitors and tourists coming here and we want to diversity our economy are more likely to forget their international drivers licence somewhere other than on their person. Surely, Madam President, let us contemplate, with a little bit more precision, some of the law which we are making today. Madam President, let us look to clause 32. Clause 32, which is to be found at page 20 over to 21 of the Bill:

"Every member of the Board or officer or employee of the Authority—

(a) shall at all times preserve…aid in"—the—"preserving"—of—"confidentiality…"

We established, higher up in the architecture, that you could delegate all authority to a committee of the Board, and that the committee members are not members of the board or employees of the Authority. How come they are not bound by confidence? Is that good enough that we do not bind them by confidence? Is that well thought out?

Let us read further down, subclause (2):

"Every member of the Board or officer or employee of the Authority shall be required to take an oath of secrecy…"

Why not the committee members who have the authority to carry out all the functions of the board and the Authority? How come? Let us look to subclause (3):

"A member of the Board, officer or employee of the Authority who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars…imprisonment for one year."

Just so the committee members get excluded. [*Interruption*]

Sen. Maharaj: Which committee are you talking about?

Sen. F. Al-Rawi: We are talking about the committee as a "delegatee" function which can be established under the architecture of things. [*Interruption*]

Sen. Maharaj: Which clause is that?

Sen. F. Al-Rawi: Okay. The architecture of this is that committees may be established to do the work of the Board of Directors.

Sen. Maharaj: Which clause is that are you quoting from? [*Interruption*]

Sen. F. Al-Rawi: Look at clause 17. Clause 17 of the Bill, at page 14, says:

"The Board may appoint such standing or special committees as it thinks fit to assist in the performance of its functions under this Act or any other"—written—"law…

A committee appointed under this section shall consist of at least one member of the Board together with such other persons, whether members of the Board or not, whose assistance or advice the Board may…"—be desirable.

Now, that is normal. The Electronic Transactions Act, by way of an example, under the laws of New Zealand, contemplates the power or co-option, because you know you are stymied, very often, in your inability to get things done because you just simply do not have the manpower to do it, Madam President. What I am saying is that we have to have the coordination of our thought and expression in the language of the Bill, and I am saying that clause 32 of the Bill falls short of that.

Madam President, in clause 33:

> "A member of the Board, officer or employee of the Authority shall not be held personally liable for anything done, permitted to be done…"

Again, committee members are left out. But what I found quite interesting is the insistence of our Parliament, under the current regime, to not look to the bona fides of whistle-blowing. The hon. Minister had to speak today to—[*Interruption*]

Madam President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. C. Robinson-Regis*]

Question put and agreed to.

Madam President: Senator, you may continue.

Sen. F. Al-Rawi: Thank you, Madam President. [*Desk thumping*] Madam President, I was saying that the—and thank you to my learned colleague, Leader of Opposition Business, Sen. Camille Robinson-Regis, for moving my extension, and to hon. Members for agreeing.

Madam President, I was saying, as a Parliament we are missing sight of a very important protection to be gained to the public procurement/public-moneys concept when one uses whistle-blowing as a mechanism for information—[*Interruption*]

Sen. Hadeed: "Why yuh doh whistle-blow the Tobago House of Assembly auditors report?"

Sen. F. Al-Rawi: And, Madam President—[*Interruption*]

Sen. Robinson-Regis: "Why you doh whistle-blow TEIL?"—

Sen. F. Al-Rawi:—you know, Sen. Hadeed understands the difficulties of whistle-blowing because he is raising the point, and we know his views about rats and where they exist, and what whistle-blowing looks like. [*Crosstalk*] But, Madam President, on the law here now before us, rats aside, when we look to whistle-blowing protection—[*Interruption*]

Sen. Maharaj: Which clause?

Sen. F. Al-Rawi: This is after clauses 32 and 33—the hon. Minister had cause to consider, what he called, other methods of incentivizing persons at the Authority. He was being delicate about referring to the phenomenon which exists in the allegations of corruption in the public service. That is what he was being delicate to, and the fact is that it would be useful to provide for whistle-blowing provision particularly in this kind of law. I say so because the Motor Vehicles Authority, when it is constituted properly, is going to be a very important agency which can assist us with our whole management of crime and provision of security.

When you think, Madam President, that one of the useful purposes that the Minister referred to is that stolen vehicles would be able to be tracked by virtue of their RF tag identifiers in their electronic plates. When you think about that, Madam President, it means that if there is a possibility that unscrupulous persons who may be employed by the Authority, have the ability to go in and change records and change the property, characteristics of these RF identifiers, then we must factor that coordination with national security. So my humble suggestion to the hon. Minister is that we ought to have some sincere provisions, by way of deterrence and sanction, to the members of the public service who are entrusted to make this law work. Because if we are serious about improving our disastrous record, now as it stands for detection and conviction, down from 35 per cent in 2010 for homicides to a high—as this Government calls it—of 3 per cent, then we need to be real with what we are doing. It is a very useful opportunity, Madam President, for us to improve the laws of Trinidad and Tobago.

Madam President, we have the use of a Certificate of Character in clause 50. Let us look at clauses 49 and 50 of the Bill Clause 49: restrictions on newly licensed drivers—and I found it rather interesting that the restriction did not contemplate very experienced drivers who came to the jurisdiction and who were also members of the Commonwealth and not Caricom alone. I thought it quite interesting in clause 50 that endorsements on the driver's licence, for that endorsement to be had, that you must, under subclause (4):

When you are making "An application"—you—"shall…tendered…—

(a) a certificate evidencing the completion of a defensive driving course; and

(b) a police certificate of character."

That is laudable on the one hand. It is to be complemented that we want to track certain incidences, but, Madam President, for those people who do not have a good Certificate of Character, who have some issue with the law, or had some issue with the law, but who have reformed themselves significantly, what is the consequence of that police Certificate of Character? I can see the benefit for having it. I am cautious about the effect it may have on recidivism or targeting, and I wondered if we wanted to put a qualification, because the Bill actually utilizes certain prohibitions for members that operate on certain committees that the Board is to comprise or that the registration identifiers are to provide. And we say, for instance, at one point, "Any person who has been committed of an indictable offence", and then in another part we say: "Anybody who has been committed of an indictable offence and the term of imprisonment is two years", or, "Any person where the term of imprisonment is three years"; we need to have some degree of consideration as to the grades of offences which we would be looking at.

Because, by way of example, if we go to the Municipal Corporations Act you would note, Madam President, that selling rotten tomatoes, as I have referred to before, is an indictable offence, and you may be committed of that. You may be found guilty of that. Are you to be excluded automatically? Or is there some degree of discretion to be factored on the nature of the offences that we prescribe in the laws of Trinidad and Tobago? After all, everybody has an aspiration; if not everyone, most of us have an aspiration to drive. The hon. Minister spoke of some 700,000-odd cars on the roads of Trinidad and Tobago, in a population of 1.3 million people. Well, Madam President, that is coming close to full utilization of capacity. So, Madam President, the graduation of the effects of the prescriptions needs to be factored, and, certainly in clause 50(4)(b), I wonder what the effect of that is.

12.30 p.m.

Madam President, when I look to the declaration of interest at page 15 of the Bill, page 15 of the Bill speaks to declarations of interests. Now, first of all, Madam President, I think that it is an oversight for us as a Parliament not to prescribe that the members of the Appeals Committee and the members of the board, but certainly the Appeals Committee, are persons in public life. The members of the board as comprised may fall under the Integrity in Public Life Act. I wondered whether we needed to be specific in relation to the Appeals Committee because the *quasi-judicial* functions being prescribed in the Appeals Committee are serious functions, and did we need to prescribe the application at the Integrity in Public Life Act was a question that I had there. But let us look to the declaration of interest at page 15 of the Bill.

When we are looking to the declaration of interest to be factored here on the staff of the Authority—sorry—on the board of directors, why is it that we are adopting a different standard from the declaration of interest that we have, as a Parliament, utilized in other pieces of legislation that we have affirmed in the Senate? Why is it that we are not requiring declarations of interest to be made as soon as is practicable or the consequences of a declaration being made and relating back to matters which have been considered and determined by the person affected with the conflict of interest? Why are we not making contemplation in the Bill itself as to decisions which have been passed where a conflict of interest has existed? We certainly have done that in the securities laws by way of examples alone. I think it would be useful for the hon. Minister to look to that. I wondered why it is at clause 14 of the Bill we thought it prudent to prescribe the mechanism for holding board meetings when that could be done under subsidiary legislation, and the danger of putting in hard cast in clause 14 matters which can be regulated by subsidiary legislation caused me concern.

Now, Madam President, I am indicating to the hon. Minister that I have a lot to say at committee stage. I have touched on several areas as they arise. The Bill does not lend itself for easy classification. I would summarise my contribution as follows: I would like the hon. Minister to speak to, what has caused the Government six years of delay, ending with the PNM Government's tenure, coming to five years of this Government—we are one month shy of five years—what has caused five years of delay to implement the technology which we bought and paid for in 2007 to 2009?

Secondly, what is the status of the Motor Vehicles Authority as it is physically intended to be situate at Frederick Settlement in Caroni?

Thirdly, how are we contemplating the useful and efficient review of this legislation, as a Parliament, so that we can make sense of what seems to be some obvious shortcomings in the considerations of the effect of some clauses of the Bill?

Fourthly, Madam President, I ask the hon. Minister to consider scheduling out all of the offences, putting it into a convenient schedule so that the user of the Parliament is made easier when we amend the laws, every single year as we do, it is much easier for us to look to the schedule of offences as we have elected to do in Bills including securities laws of Trinidad and Tobago.

Madam President, I humbly suggest to the hon. Minister that this Bill is not ready to be passed as a Senate. I do think we need to do a little bit better in our reflections. I am not subscribing to the allegation that we do not support the law for its legitimate aim. We certainly do support the law and the legitimacy of the aim that is intended, but

I think that the Parliament would do better by way of a special select committee or a joint select committee considering the provisions of the law, as I am sure without anticipating the Insurance Bill. It will be demonstrated that the Parliament can act with efficiency when we actually settle ourselves in a united purpose to better the laws of Trinidad and Tobago.

May I say in conclusion, the PNM is resolute in supporting all laws of Trinidad and Tobago that inure to the benefit and best interest of our citizens. We thank the public officers and staff members of the various departments that have produced this draft law for us for consideration. We humbly recommend that some better reflection be had to this, and I look forward to participating in committee stage with some more fulsome measure. Thank you, Madam President. [*Desk thumping*]

Madam President: Hon. Senators, I now propose that this sitting be suspended for one hour. The sitting is suspended until 1.35 p.m.

12.35 p.m.: *Sitting suspended.*

1.35 p.m.: *Sitting resumed.*

Madam President: Sen. Dr. Kriyaan Singh.

Sen. Dr. Kriyaan Singh: Thank you. Madam President, I really appreciate the opportunity to be here today to speak on this Motor Vehicles and Road Traffic Bill, 2014, and I want to thank my fellow Senators for allowing me to do so today.

I want to keep my discussion strictly on the areas that deal with persons with disabilities. The first area I would like to look at is an inconsistency in clause 86 in which they are saying that:

> "…a person who is permanently disabled may apply to the Authority to have a vehicle registered and issued with special licence plates."

And then lower down it says that at number (3):

> "…licence plates shall be deemed to be a person with a disability…parking permit to the extent that—" And they go on.

Later on in the amendments at 105, the clause dealing with persons with disability parking permits, it now states that the parking permit is something that is going to be displayed on the dashboard, on the windshield or on the rear-view mirror.

Now, this is actually the international standard that you use the sign of accessibility which is normally the blue wheelchair stick figure, and you display it on your dashboard or on your windshield—on the rear-view mirror—sorry. So, there needs to be some clarification as to this inconsistency, because also, later on at clause 107(5) it says that a:

"A person with disability parking permit issued under this section shall be valid—

(a) for a period of three years, where a medical practitioner certifies the immobility;"

My understanding is that if you put a number plate on a car, you do not change that. So if you have the handicap sign on the number plate, how long is it actually valid for? So there is an inconsistency as to how often this permit, whether it be a number plate permit or a permit on your dashboard, be renewed.

Also, the current law is that a person with a disability has to renew their licence every year. Whereas the permit for a person with a disability is being allowed for three years—this is the parking permit. There needs to be some consistency between the two as well. All right. Because we need to have a law in place or some format in place for how you adjudicate who is disabled, but also the extent of their disability in terms of whether it is a disability that is deteriorating or whether it is permanent but constant.

An example would be myself. I am permanently disabled from my chest down, but I am not deteriorating. However, I have to go every year to the Licensing Office and renew my licence. I understand from Sen. Roach that he has his for five years. So where is the consistency there? You know, so it brings into question, what is the actual law regarding driving permits or driving licence for persons with disabilities.

Now, just to give you all a little background story about the struggle that a person with a disability faces when going for their driver's permit. I will give you my own story. As a holder of a driver's licence from the time I was 17 to the age of 23 when I became disabled, I had no problem driving. In 2006 I became disabled. In 2007, while doing therapy in the USA I did a driving test there and got my driver's licence there. I was certified to drive in the US with portable hand controls, came back to Trinidad, went to the Licensing Office and they had a whole range of requirements that I had to meet.

First off, they said that I have to give up my current licence—which I had no problem doing. So, I had to forfeit my current licence and then apply to have a new licence given. Following that when I went to get the new licence, the licensing officer at the time in 2009 in south, he said that: "you need to come with a car registered under your name only, insured under your name only, and outfitted with the hand controls, and you are the only person that is allowed to drive that vehicle."

Now there are a lot of problems with this situation. Firstly, is that it is known that it is the disabled population is usually on the lower income side in Trinidad and Tobago or around the world. So the chances that a person with a disability is going to be able to buy a car is very slim, and there is no requirement for a person without a disability to own a car to get their licence. So, therefore, there is discrimination there. So, they need to clarify that.

The next issue is, if you have forfeited your licence you cannot get car insurance. You cannot issue a car insurance to a driver without a licence. So, how do they expect you to get insurance without a licence. All right. The other thing is, they are saying you alone could drive the car. So if your father owns a car and you have to transfer it in your name, get insurance in your name, then you alone must drive that car. Now, this is based on the old technology that existed for hand controls, which was a fixed system in the vehicle which was bracketed to the foot pedals and prevented a person without a disability from really using it.

The new system, as I said, the portable hand controls can be moved from any automatic vehicle in under two minutes. Right? It is FDA approved and it is the norm now in the US. So, one of the points I would like to say is that, in this Bill we need to figure out how we are going to allow for a recognition of the new technology for driving. Because when I had gone to get my licence and I was turned away, when I came back with the portable hand controls, they told me, no you cannot use that. You need to go to Princes Town Licensing Office. There is a licensing officer there who makes them for $3,000. So, I had—they asked me to go there. Immediately I understood that this was what it was, and I said, no. [*Interruption*]

Hon. Cadiz: It was an incentive.

Sen. Dr. K. Singh: Yeah. It was an incentive, you know. [*Crosstalk*] So, I chose not to do it. I then called back the licensing officer in south and I spoke to him. I said, "Look I went to the insurance, they said they cannot issue an insurance without the driver's permit, and you are saying that I need to have this before I could do the test."

After a lengthy discussion he was so insulted that I told him, I said, "Well my condition is permanent. I am permanently disabled and I would like to drive." He said, and I quote, "Well when yuh get better, come back". [*Crosstalk*] "When yuh get better, come back." Right. I will tell you—[*Interruption*]

Hon. Senator: Say his name.

Sen. Dr. K. Singh: Well, you all could do the research and see—2009. All right. I will tell you that this was very disheartening to me. Because as a young person who wants to drive, knows that I am fully capable, but I am being insulted to receive my licence.

So, I think we—I have not seen anything in this Motor Vehicles and Road Traffic Bill to suggest that there is going to be an ongoing educational programme for licensing officers, and a disciplinary committee as well, where people could go and make reports about these kinds of occurrences, these kinds of incentives to deal with them. Just excuse me one minute.

1.45 p.m.

All right, so, back to my story. I had to eventually cut a deal with the insurance company. The insurance company that I have insurance with is Colfire and the deal that I had to cut was with the agent. I had to invest some money in their bank in order for them to give me a one-day insurance to drive for the test without the licence, so they gave me a letter stating that. [*Interruption*]

Sen. Ramnarine: Not Beacon?

Sen. Dr. K. Singh: So, this is the problem that I faced. I had to do it. I went and did the driving test. When I did the driving test they told me that I would have to come annually to renew the permit. I would have to do a medical annually, that also each time I come I would have to redo the entire driving test, so that is what I have been doing every year since 2009 to now.

Earlier this year when I went to renew my driver's permit, I went at 9.00 in the morning, went up to them, and as you all know the south licensing office is not accessible to persons with disabilities. The office there requires you to go where the licensing officer is, it has three steps, and they refuse to come outside their office to speak to you, so they want you to send somebody inside. Now, as a person who is fully independent, I do not see why I have to get somebody to go with me.

Further to that, even though there is a ramp up to where you take the photos, there is no ramp or access to where you have to pay, where you have to cash. So, what had happened was I went, I reached at nine o'clock and submitted my medical forms and everything, and they said, okay, they need to find my records. Well, those records took them an hour and a half to find. When they found it eventually—and I am sitting outside waiting—they come out and say, okay, we are sending your forms down to the pit, go down there with your car. So, I went down to the pit, and, to be honest, I do not understand what the purpose of the pit is, because they tell you drive on and drive off, and you do not see them checking anything. So, I do not know if it is just a formality that they do.

But, when I went down there, they told me my form has not arrived yet. Now, this is a distance downhill of probably 100 metres, so I do not understand how the form could not have arrived yet. I waited for another hour, until on the other pit they said, "Oh, look the form rest down here." By the time I did that, came of the pit, they then had a licensing officer give me a driving test. He told me get in the car, I drove, I did everything fine, came back, and when I parked up he said: "well, you cannot get your permit today". So, I said, why? Did I fail the test? He said: "No, you cannot get your permit until you paint on your bumper, "no hand signals".

So I told him, I said "Listen, I have been driving now since 2009 with no sign like that. No previous licensing officer has said I have to put a sign like that, why are you saying this now?" Well, his answer was, he cannot speak for the other licensing officers, he is telling me what is the law. Well, luckily for me, I had previously been speaking with the hon. Minister of Transport and I also had been speaking with the former Commissioner, Mr. Reuben Cato. So, I called him while I was there and told him what was going on, and he said, he sent out a memo over a year now that said that is not a requirement, it is not the international standard. So, again, it begs the question, where is the education for these licensing officers? Where are they being told what is the law, and what is hearsay, and what is just what they have been doing for so long that they think is law?

So, there need to be some clarity in how a person with a disability is going to get their licence in this Act. It should be stipulated. It should be stated factually the laws that are required for them to achieve it. As for the requirement to have it done annually, my suggestion would be that it should be done annually for people whose condition is deemed to be deteriorating. If your condition is not deteriorating, there are no medical grounds for you to do it annually, because you are no more deteriorating than anybody else who is getting older. Also, there has to be some consideration that if you have to do this annually—I work, every year to do this I have to take a whole day off, and if you go and they tell you come back, you have to take another day off. You have to take a day off to go for your medical. So, you must be considerate as to how much time you waste in the licensing office. So, back to the law itself, it says here that:

> "'person with disabilities' means a person whose mobility is limited as a result of severe physical disability however caused including paralysis, lower limb amputation, heart or lung disease, or other debilitating to impairment to the extent…"

I want to know if we have a definition for a person with a disability throughout all the Acts in our law. Because you have several people who are receiving disability grants who are not by this definition a person with a disability, receive their grants but are not going for a disabled driver's licence. So, it needs to be across the board in all the laws where if you are defining something it should be defined entirely and throughout all the laws equally.

Further to that it says:

"A person who wishes to be issued with person with disability parking permit shall apply to the Authority in the prescribed form and pay the fees specified in the Fifth Schedule."

I do not understand why a person with a disability should have to pay a fee for this permit? I think it is their right. It is their right to drive once you could have a licence and it should be their right to get this permit to stick on their car. It should not be something that you have to charge for. So, as I had said before, the issue with the licence plate with the handicap signal, one of the comments made by some of the disabled organization is that having that on your licence plate makes you very vulnerable. You are open to people following you, attacking you, discriminating against you, especially if it is going to be on the back of your car. The difference is if you have it on your windshield, it is only visible from looking upwards, so you are in a standing position, or from the front of the car where you have the liberty to see people who may be noticing you.

As I said, if you have it on the number plate, you are saying that a person with a disability must only drive that car. So, what happens if I have that on my number plate and my car needs to go to service, am I not allowed to drive another car? What happens to a person who does not own a car and wants to rent a car? Can he not rent it? So, the permit should be given as something that is transferable from one vehicle to the other, but in the name of the person with a disability [*Desk thumping*] that will allow for it to be used in any vehicle. If someone else has to take me out they could put it on the dashboard and park in the handicap spot. If someone has to pick up somebody with a disability they can give them it and they could park, which is in the law, which is in the amendment now, and if it is movable it allows for the person to use any vehicle, any vehicle that he can properly put the hand controls in, which would simply be any automatic vehicle.

Further to that, I would like to say that I have seen that late in the Bill there are some issues or some amendments and so on, about concessions to certain types of vehicles, for electric vehicles, hybrids and so on, but I have seen nothing about exemptions for vehicles for disabled drivers. [*Desk thumping*] Because, there is nowhere in Trinidad where you could buy a vehicle, outfit it with a ramp or a lift for a disabled driver. If you have to get one of these vehicles you have to import it. The main countries we import vehicles from are Japan and Korea, both of which have laws against the export of disabled access vehicles, because they keep them for their own use. So, we are limited now to maybe the UK, which is quite expensive, and the US. The problem with the US, as everyone well knows, is the left-hand drive problem. So, there needs to be a little concession, a little consideration for that aspect. I would hope that the intent for this law, when it eventually gets sorted out, would be to make it as easy as possible for a person with a disability to do the right thing to get their driver's permit. [*Desk thumping*]

As I said before, they should limit the people who they issue these permits to, to worthy causes. I do not think that if you are a senior citizen but you could walk you should be allowed to park in the disabled parking spot. I do not think that if you are a woman with six children in the back seat that you should be allowed to park in the disabled spot, I do not think if you are a pregnant woman you should be allowed to park in the disabled spot. As the Minister would know, we both attended a function where I was very vocal about a WIN TV driver parking in the disabled spot, to the point that when I got inside, before I started my address I told him to go and move his car. So, his excuse—he came up after and apologized—was, he had stuff to take out from the car. So, he took out his camera and everything and started filming and leave the car there.

So, the disabled parking spot or accessible parking spot should not be a loading bay. It should not be a stop-and-go bay. It should not be a drop-off bay. It should be strictly for persons with disabilities who have the permit. And what I would like to say is, I go to the UK often, there is no question that I am disabled, but I cannot park in a disabled spot there, because I do not have the permit. Even if they see me coming out the car in a wheelchair they will still charge me. And the funny thing is that in Trinidad people park in these spots who are not disabled, but when they go to the US or the UK they dare not do it. They dare not litter, they dare not park in the spots, they dare not break traffic lights, they dare not do it, and it seems like with Trinidadians, I would want to quote Plato in that:

More often than not it is easier to do the wrong thing.

—because that seems to be a culture we have to get rid of in our country.

As the law is intending to put in fines for people who are parking without the permit, I would like to know, how is this going to be done in terms of who is going to do it? If it is traffic wardens?—Is it police officers? Is it security guards in private businesses? Because my understanding is that a police officer cannot charge somebody for parking in a spot in a private business right now. There is no law for that. There is also no law currently to insist that businesses, private institutions, or even Government buildings have disabled parking spots. And my issue with this is, if you are now going to institute a fine for people parking in a disabled spot, there would be business owners who would say, "Well, I have a disabled spot but I let anybody park in it. If you are now going to fine my customers I am removing the spot."

So, for this law or intended law to actually work, there must be a law before this, which states that all businesses, all public places must provide disabled parking spots and must provide a certain percentage also of disabled parking spots. If you go to a shopping mall in England, there are three floors of disabled parking. Three entire floors.

Over 300 parks, and in Trinidad we have one or, to some extent, half; half of a park they give you. And when we come with a law to regulate that parking spot, it must be of the international standard size, demarcation, length, width and closeness or proximity to where the person is going.

2.00 p.m.

More often than not, in Trinidad, I have seen places that have gone the extent to put a disabled spot, but it is 10 parking spots down from the access. One example would be in Tropical Plaza in Marabella where I go to the gym every day. There was a parking spot that was put up by, I believe, Royal Bank, and the access, the only access point into the corridor is the first park, and instead they have the handicap park 10 spots down directly in the turning area for the drive-in.

So if a person with a handicap parks there and has to come out with a wheelchair they are going to get knocked down. They are going to get bounce. And then what happens is, because the first spot is not demarcated and a person parks there, they block the access so you are no longer able to get in. And that is an important thing. There is nothing in the law to suggest, not only if you park in the spot but if you block the spot, because what a lot of drivers do is that they do not park in it but they park in front of it and they say, nobody is coming there, it does not have anybody in wheelchairs that drive in Trinidad. They say, I never see one or they are not coming now, [*Laughter*] you know, they will not reach now. And that is what happens. These are things that I have heard, all right.

We also need to look at government vehicles, police vehicles, fire service vehicles, military vehicles abusing handicap spots. There have been numerous pictures posted on facebook with police vehicles parked in handicap spots. I posted one with a fire service van parked across two of the spots. He parked like a pilot on the line. You know how a pilot does line up with the line. That is how he parked. So there need to be a regulation and some disciplinary action taken against Government sector when they disobey this law.

So in conclusion, I would just like to say that while the intent of this law seems very good, there is a lot of clarification, a lot of resolution of conflicts that needs to be handled, especially with the persons with disability parking permit section and the persons with disability applying for their licence. Thank you. [*Desk thumping*]

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Thank you very much, Madam President. I think after hearing the contribution of Sen. Dr. Kriyaan Singh, it is important today that we start this debate. We cannot and should not put off this legislation any longer for the exact same reasons that Sen. Singh

mentioned. [*Desk thumping*] We cannot allow discriminatory practices to continue, and this administration has been at pains to remove all sorts of inequity in our society wherever we find it. And for that reason I would tend to differ from my colleague, Sen. Al-Rawi, that we intend to defer this any further.

Madam President, as the first Minister of Transport in this People's Partnership administration and as former chairman of the Public Transport Service Corporation, it was indeed my duty to contribute in some small measure to this very important Motor Vehicles Authority legislation that is before us here today. As you know, when we came into office in 2010 there was one single Ministry called the Ministry of Works and Transport and that obtained for a number of years before coming into office, and it is due to the foresight of the hon. Prime Minister, Kamla Persad-Bissessar SC that the decision was taken to split this Ministry into the Ministry of Works and Infrastructure and the Ministry of Transport. And for some, they glibly say that this was just creating another Ministry, but as the first Minister of Transport there were a number of deficiencies in the transport sector that really required focused attention and it began with this splitting of the Ministries.

This MVA legislation is one of those areas of focus which required a dedicated Minister and Ministry to look at it. There are many other areas, for example, the maxi-taxi Tribunal. When the Maxi-Taxi Act was passed way back in the, I believe in the 1990s, since that time to now, over 20 something odd years, the maxi-taxi Tribunal, even though a fact of the legislation, a fact of the statute, never came into being, and under this administration we listened to the Maxi-Taxi Association and the maxi-taxi drivers and operators and constituted this much needed Authority. [*Desk thumping*]

Madam President, just to recap some of the historical data surrounding the transport sector here in Trinidad and Tobago, briefly touched by my Cabinet colleague, Minister Cadiz, and citing our historian Angelo Bissessarsingh:

> "The first car rolled onto these shores on March 24, 1900, to much applause and speculation. The owners, Messrs Garner and Khun, were immediate celebrities, along with their horseless carriage, a steam-powered 1900 Locomobile Runabout.
>
> By 1910, there were over 50 motor vehicles on the streets, including the first lorry, imported in 1909 by Leo Devenish."—At that time—"there was no licensing of drivers or their vehicles and the only instruction one needed to drive"—a vehicle—"more often than not"—it was really reading of the—"owners' manual."

So it was a kind of "wild west" frontier mentality in terms of how you operated your vehicle.

No doubt, after some much anticipated accidents on the roads the first traffic laws were implemented by 1912 and this:

> "…constituted the Motor Vehicles Act…which mandated the licensing of vehicles and drivers, inspection…and testing"—of vehicles. "The Traffic Branch…Constabulary was formed to administrate this function until the formation of the Licensing Division in the 1960s."

Today, the motor vehicle sector in Trinidad and Tobago is a far cry from its humble beginnings in 1900. In fact, they look vastly different. By the end of 2014, last year, we can boast of some 791-odd thousand vehicles being registered on the streets of Trinidad. But that is not to say that all these vehicles are not on the road, eh. Those are what are registered, but at any given time I think you can safely say that we have at least half, about 350,000 vehicles on the road or so. There are approximately one million driver's permits registered in Trinidad and Tobago. Again, that is not necessarily one million people with driver's permits in Trinidad.

There are some very instructive bits of information and we have to put it in context why we are here today. Sen. Al-Rawi lamented the undue delay for the piloting of this Bill here today. He lamented that we took five years or six years, he said, even though we are in office in our fifth year, but I take his point, and his contribution I think, I must commend him, he stuck on the points of law, welcomed departure from his previous incarnation. But it needs to be put into its historical context and I wish to differ from Sen. Al-Rawi when he stated that MVA was one of the core anchors of the PNM Government.

In fact, Madam President, the drive to modernize the transport division actually finds its genesis under the UNC in 1998, and not in the PNM as Sen. Al-Rawi alluded to. And I want to quote here directly from *Hansard*, and I quote:

> "…in 1998 the UNC Government agreed to the implementation of the following initiatives aimed at modernizing the Transport Division:
>
> 1. Transformation of the Transport Division into a statutory authority to enable it to better manage its business;"

I want to repeat that:

> "Transformation of the Transport Division into a statutory authority to enable it to better manage its business;
>
> 2. Approval of a request for proposals for the supply, delivery and installation of computer hardware and software for the driving permit and vehicle registration system at the Transport Division;

3. The installation of an information technology system to replace the existing system at that time."

That is from the Trinidad and Tobago Parliament, *Hansard*, Colm Imbert, April 15, 2008.

So, the genesis of this is not to be found in PNM myth at law and the revisionism of PNM-mites. Not that I am saying that Sen. Al-Rawi is engaged in revisionism, but to be found in the *Hansard* is really, could be attributed to the UNC in its first incarnation in 1998.

The need for this restructuring is multifold. Minister Cadiz pointed out at one area in terms of cracking down fraud, streamlining and modernizing the operation at the licensing division and to make it friendly and secure. It is the division I think of all administration, PNM, UNC, whatever administration, that a citizen of Trinidad and Tobago could walk in the Licensing Office, whatever that office may take the form of and walk out within five to 15 minutes in a short space of time.

Indeed, as Minister of Transport I found in Tobago, the Tobago Licensing Office, you have that shortness and quickness of time of getting your business transacted across there. I am sad that Sen. Cudjoe was not here to hear that. [*Interruption*]

Sen. Robinson-Regis: She is in the library.

Sen. The Hon. D. Maharaj: She is in the library.

Sen. Robinson-Regis: She is listening.

Sen. The Hon. D. Maharaj: Yeah, she is listening, of course. So what happened when the UNC demitted office seeing that the foundation was laid there for the PNM to carry through? I think that this really speaks to the fundamental difference between the two administrations, and the PNM I think lacks by what I am about to lay out here, the ability to implement anything properly. They found plans in place to computerize the licensing division but they were bogged down in fact, when they came into office, by allegations of insider trading of information, tainted with strange relations and bad blood between them and international organizations.

I am not casting aspersions at any Minister. [*Crosstalk*] No, you could not implement. That was the problem. You met a good plan and they lacked the ability to implement. In fact, let me quote, in 2005 a story carried by one of their favoured reporters, Asha Javeed, in the *Trinidad Guardian*:

"Battle over licensing contract

Stalemate between Govt, UNDP"

Ms. Javeed writes, and I quote:

> "It's been over a year since the Government announced plans, with a US $5 million budget, to move the unit from the paper age to the tech age but the process has now been put on hold."

One year. So they actually started it in 2004 because this cite was in 2005.

> "However, the process has now been stopped by the UNDP because of conflicts with the evaluation team in the Ministry of Works."

And that was taken from the *Trinidad Guardian*, August 25, 2005.

In fact, the facts were the people who bid—there were two bidders on this, Kogun International which had a bid of US $1 million and Microstrategist, a local firm with a US partner, whose bid was US $3.4 million. And, of course, one would have thought—yeah, US $3.4 million. One would have thought the logical choice would have been the lowest bidder because they would have satisfied all of the other criteria, but instead the recommendation was to go with the highest bidder and that caused some difficulty, tying up the process further.

2.15 p.m.

In July 2006, two years after the 2004 stalemate, the headline then wrote: "New lawsuit over Transport Division contract", by Suzanne Sheppard. And I quote:

> "For the second time, the Ministry of Works and Transport is facing legal action over the award of a contract to computerise this country's Transport Division."

This time around Transparency International was getting involved. There were allegations that an advanced copy of the request for proposals getting into the hands of one of the local firms bidding for the contract. Additionally, there were allegations that an official with first-hand knowledge of the previous tender document was allowed to play a leading role in the RFP.

This was taken from the Trinidad *Newsday*, Sunday, July 23, 2006. In fact:

> "Lawyers for Strategist Caribbean Limited…a local firm which submitted a bid for the project, say they were seeking judicial review in the matter. They have expressed concern that individuals who participated in the evaluation of the bids were also involved in previous tendering process for the project which was aborted"—as a result.

Three years again later, the *Guardian*, in April 16, 2008:

> "Tendering comess blocked licensing project
>
> A 'dogfight' over the contract to modernise the Licensing Office, including public character assassination and an attempt to remove an international representative, has delayed the modernisation of the division…"

April 16, 2008, *Trinidad Guardian*, Gail Alexander.

Madam President, this was the nature of what happened under the PNM, under the astute ministerial stewardship of Colm Imbert, which got the branded title of, "insider trading of information".

Sen. Hadeed: "De man who like to walk out quick."

Sen. The Hon. D. Maharaj: The computerization of the project was hampered by delays, bogged down by controversy, all under the mindful eye of the PNM Minister of Transport, Mr. Imbert. [*Interruption*] I did not say Mr. Imbert participated in any of this comess, eh. [*Crosstalk*] This is the culture of PNM administration. They lack the ability to implement and manage properly, so nothing happens under them. They could come up with a plan, unrealistic as it is, but then fail miserably to implement.

So while my colleague, Sen. Al-Rawi, could lament about the five years that it took for us to get here with this Bill, he was deathly silent on the five years for them to get anywhere. [*Desk thumping*]

Madam President, when you look specifically at the MVA, Sen. Al-Rawi would have us believe that they left a key in a lock in a door, that all that was required was for us, to turn the key and walk in. If we were to believe my colleague across the floor, that that was the scenario: the house was built, the door was up and the key was in the door—that was the fabrication that was created. But when we came into office and we held on to that knob on the door, the knob "come out in we hand". [*Laughter*] That was the scenario that we faced. We tried to open the door, but we pulled out the knob—[*Interruption*]

Sen. Robinson-Regis: "All yuh mashin up everyting yuh touch."

Sen. The Hon. D. Maharaj:—because what they left was a facade of completion. The legislation that we have before us here was a result of a lot of work by the members of the Attorney General's office, the CPC, and they are here with us and I wish to congratulate them for the work that they have done, [*Desk thumping*] but also late Senior Counsel Dana Seetahal and Justice Hosein, who also contributed towards this piece of legislation.

In 2009, Mr. Imbert, I think, continued to try to convince himself, if not the population, that he would have the ability to bring a licensing authority into reality, and in 2009, after a post-Cabinet press conference, Mr. Imbert once again promised the nation that the long lines at the licensing office at Wrightson Road would come to an end and that the nation could sleep easy at night, knowing that they do not need to get up at four o'clock in the morning; three o'clock in the morning, and go and line up on Wrightson Road to get your vehicle inspected, or to get your driver's permit. You do not need to put aside an additional incentive, as my colleague called it, of $500 in your pocket, to provide an additional inducement to get your driver's permit.

In a post-Cabinet press conference on Thursday, March 19, 2009, Mr. Imbert says—and was reported by Sean Douglas in the *Newsday* the following day. In a plan costing $108.3 million the Works and Transport Minister, Colm Imbert said yesterday, speaking at the post-Cabinet media briefing, the Government was undertaking a plan via an agreement with the Nova Scotia Government which will provide a blueprint for the DVLATT, which is the Drivers and Vehicle Licensing Authority of Trinidad and Tobago. If all goes according to plan—he boasts—Imbert said TT would have a DVLATT, which was on the cutting edge, by November.

Now, he is saying this in March 2009 and preparing the nation mentally that by November that year, a few months down the road that we would be on the cutting edge of new technology. [*Interruption*]

Hon. Senator: "No legislation, nutten, yuh know."

Sen. The Hon. D. Maharaj: Now, what was the preparation for this? My colleagues on the other side talk about preparation and what we need to do. They could tell us what we need to do on this side, but when they held political office, when they were politically potent, they did not know what to do. [*Desk thumping*] Now that they are struck with impotency, they have advice for us. [*Desk thumping*]

When November 2009 came around, there was no authority in place. But there were those in the society who knew that this plan of the PNM was unrealistic. In fact, a few days after that fateful post-Cabinet press conference on March 19, the *Newsday* editorial wrote on March 23, and I quote:

> "If Colm Imbert is correct, then by year end the bureaucratic hassle at the licensing office would be a thing of the past. On the other hand, if history is any guide, Mr. Imbert would be talking about a lot of 'teething problems' come 2010."

So said, so done because the licensing authority never materialized, because it is a much more complex feat than just making a glib statement at a post-Cabinet press conference, and it was another promise that never materialized aka PNM. [*Desk thumping*]

We got, indeed, a draft piece of legislation by our predecessors, but that and nothing was about the same thing, fortunately. We had to renovate, resuscitate and revitalize that piece of legislation. It was in the ICU at that point in time. It was in intensive care. It was no good. It was a piece of legislation where towing on a bike, for example, was a criminal offence. A past time in rural Trinidad, by and large, "yuh gettin a tow on a bike", under their administration you will get "lock up. Yuh in jail."

We had to remedy that, among many other things. There were major administrative issues that needed to be attended. More importantly, one of those issues included the movement of union from one institution to the other. But, you see, the PNM was not concerned about really turning their mind to the MVA, the Motor Vehicles Authority. They were not concerned with the people lining up on Wrightson Road. They were not concerned with the persons from south and central who had to get up three o'clock in the morning to come and transfer their vehicle and do administrative stuff on Wrightson Road. They were not bothered. They were busy with the Rapid Rail. They were busy committing half a billion dollars in a pre-feasibility study. I want to underscore that, you know, because that is not even a feasibility study. Now, if the pre-feasibility was half a billion, I shudder to think that a feasibility study might be a billion.

Hon. Senator: $500 million!

Sen. The Hon. D. Maharaj: That is $500 million. I cannot even count so high. [*Crosstalk*] My friends on the other side, occasion after occasion, they would stand up in the Senate and say that this Government has spent so many billions of dollars since we came into office, in budget after budget. But what they have not had the honesty to share with us here is how much of that budgetary allocation was really debts that we incurred under the PNM. [*Desk thumping*]

And just to share with you how much of that debt came directly—only from the Rapid Rail. There are other mega projects and squandermania underwent under the last administration. In the 2015 draft estimates, for example, the Government had no choice but to set aside $58 million for the repayment of the Rapid Rail Transit System. Fifty-eight million dollars we had to set aside for that pre-feasibility study.

The allocation in 2013 was $101 million to pay back the loan for a non-productive exercise. [*Desk thumping*] In 2014, the payment was $97.7 million. So if we were to add up all of that, the payment for interest rates only from the period 2013 to 2015—two odd years or so; two and a half years—is $256.7 million. How

many hospital beds we could have bought with that? [*Desk thu*mping] How many schools we could have built with that? That went by the wayside. How many buses we could have bought with that and put them on the Priority Bus Route?

Hon. Senator: Plenty.

Sen. Hadeed: "Plenty diapers for chirren."

Sen. The Hon. D. Maharaj: They have no compassion. They were busy with this mega project which, if implemented, would have bankrupt this country. The Rapid Rail, in any incarnation, past, present, and future, would bankrupt this country.

And once again, we are hearing from the mouths of the Opposition that—if the population takes God out of its mind and put them into office in 2015—the Rapid Rail is coming. Well, they will have to do over a pre-feasibility study, a feasibility study, and due to inflation and so on, we would run into the billions of dollars. This country would be bankrupt by the PNM with the Rapid Rail project alone.

And how did they do it last time? There was no public consultation to take into account the view of the key stakeholders and taxpaying community that would be footing this massive bill. None at all! The Rapid Rail would require the compulsory acquisition of private property along the east-west corridor and south, if it is to go down south, and billions of dollars in purchasing of those properties as well as the infrastructural cost that would come along with it. But already the PNM is announcing on their platform, the Rapid Rail coming. What has been the response so far? Where was the consultation for this announcement? Did they consult the Maxi-Taxi Association? Did they consult the Taxi Drivers' Association? Did they consult anybody at all, other than the general council of the PNM?

In fact, their autocratic announcement of the Rapid Rail that is to come with them, if that is ever to materialize, has been met with criticism from the Maxi-Taxi Association already. The Maxi-Taxi Association, on September 23, 2014—the head of the Maxi-Taxi Association said on September 16—sorry—that:

> "We heard the rapid rail announcement last year and this year from the Opposition Leader who's aspiring to become Prime Minister. Yet no one has seen it fit to meet with us, the main stakeholders, to hear our views on this latest rapid rail idea and how it might affect us."

2.30 p.m.

So here it is, my good friend on the other side, Sen. Al-Rawi, asking us to consult with the Law Association with this Bill, consult with the Law Association before we bring it here, but they are making policy announcements about a rapid rail as fact, because the Leader of the Opposition has indicated he is going to get the IDB involved and so on. They have not had the decency to consult the Maxi-Taxi Association, the main movers of people in this country. [*Desk thumping*]

This lack of consultation is a direct and immediate contrast to our approach to consultation, which is part of the consensus building approach of the People's Partnership Government, and while Sen. Al-Rawi takes copious notes to give Sen. Avinash Singh, I am sure his contribution will be well-informed by Sen. Al-Rawi.

As Minister of Transport, one of the first things I did was to reconstitute and set up the steering committee which involved a wide cross section of stakeholders. This steering committee, Madam President, met frequently, and due to the diversity of the stakeholders invited was able to identify the impact areas which were not previously explored by the PNM, many of which point to the best practice structure which we see in the Bill here today, where the motor vehicle is to assume oversight of compliance on a wider reach of transport-related activities such as rental agencies and so on.

The stakeholders that were involved in this steering committee included the New Car Dealers Association; representatives from the Ministry of Public Administration for an understanding of public service rules and procedures; representatives of the Attorney General's Office for an understanding of law and policies which currently govern the best practice moving forward; representatives from the Ministry of Finance and the Economy, finance and related issue; representative of iGovTT to ensure synergies were being developed for an overall betterment of the citizenry; transport representatives including the Transport Commissioner and so on. Consultations were held and let me give you an idea of the number of consultations that were held: on May 10, 2013 in Chaguanas; consultation in April 2014 were invited from—on April 01 in Tobago; April 02 in San Fernando; April 04 in Port of Spain.

Several interest groups also wrote the Ministry of Transport commenting on the legislation. I have here with me—this is a copy of the ad inviting people to the consultations. [*Senators displays copy of ad*] The persons responding to the invitation to comment on the legislation included National Centre for Persons with Disabilities signed by Dr. Beverly Beckles, the Chief Executive Officer of the NCPD; the Association of Jehovah Witnesses signed by Garvin Lewis, Trustee, and they were asked specifically with regard to the issue of sampling of blood.

Various parts of the legislation were commented on by the Association of Trinidad and Tobago Insurance Companies, and they commented on several sections including clause 4 which looked at the definition of tractor, clause 10 the establishment of the board, clause 15 the quorum, clause 74 which looked at the PH issue, clause 88 seat belts, clause 107, clause 111 which looked at the section for differently abled and clause 116.

So, it is self-evident from this degree of consultation that the Government was opened to change [*Desk thumping*] and improvement in the legislation, and I want to put it on record that the recommendations made here today, and in subsequent debate by Sen. Kriyaan Singh and Sen. Al-Rawi and others that may come, will be taken on board at a subsequent stage for meaningful change in the legislation. [*Desk thumping*] I would like to invite Senators to put their amendments in writing so when we come to committee stage we will be at least efficient in our time and use of time to maximize the parliamentary effectiveness.

You look here, clause 74 looked at PH drivers, and Sen. Al-Rawi said that we touted that and we boasted about that for one whole year. But thereafter, when we held the consultation, the Government listened to the comments from the Association of Insurance Companies, from the maxi-taxis and from the taxi drivers' association and did not proceed further with it. I was asked, as Minister of Transport, a question in the Senate by then Leader of Opposition Business in the Senate, the former Sen. Pennelope Beckles, who has fallen under the political hatchet of the PNM purge that is taking place, about the PH taxi drivers Bill, and it was explained at that point in time.

Despite the review of the legislation and the comments about the contents of the Bill, there are elements in this Bill which have been commented on before, which are the result of some of the work of the previous administration. So the issue of the graduated licensing system to regulate, that came out of the consultation with the consultant Lydia Elliot, and she was obtained as a consultant to assist in the drafting which, as I said before, was seriously deficient in a number of areas. I have with me the policy document going back to 2009 which clearly indicated the terms of reference from Miss Lydia Elliot at that point.

What have we done? Why has the delay, as Sen. Al-Rawi put it, caused us to take this period of time? The impression has been created that when they left this finished house with the knob that is falling off the door, that we did nothing. We left this unoccupied HDC house only to introduce it months before the election. But what happened? The reality is far from the truth. I told you we spent a considerable amount of time renovating the legislation that we met.

In 2010:

June 01, the planned phase two started with approximately one month overlap due to phase one overlapped;

In August, a phase two statement of work presented and approved. Deliverable in phase one;

August 23: photo driver licensing demonstration and tour of the MVA demonstration centre for the Government of Trinidad and Tobago.

So we did buy the software as indicated, but it was for the purpose of a demonstration centre.

September 20: the Deputy Permanent Secretary, Jaggernauth Soom, now deceased, indicated notification that the Ministry of Works and Transport will be having further internal discussions regarding revised phase two statement of work;

September 27: the company responsible for the implementation received comments from the Ministry of Works and Transport on phase two statement of work;

October 16: they provided interim proposal to advance critical part item for phase two;

November 02—and I am not giving you everything here. I am just giving you some of the main highlights. The company received notification that the Ministry of Works and Transport did not wish to advance an interim proposal and that the proposed activity should simply remain phase two statement of work;

December 29: the request to meet iGovTT to discuss the leveraging of the MVA project to advance the Government of Trinidad and Tobago national smart card strategy was received.

In 2011:

January 31: DPS Jaggernauth Soom responds to the Province of Nova Scotia advising the implementation. Facilitation agreement has been approved;

January 24: phase two statement of work provided for Nidco electronically;

April 29: changes to the scope of works were requested by Nidco;

May 13: scope of works were resubmitted to Nidco via email and hard copy following to Carson Charles President of Nidco;

June 17: additional changes to scope of works were requested;

June 30: statement of works resubmitted.

In 2012:

January 29: Ministry of Transport advised Nipdec to provide project management services for phase two of the MVA programme;

March 08: the MOU was signed between Ministry of Transport and Nipdec;

May 01: innovation agreement was signed between Nidco/Nipdec and the IBI group transferring the responsibility of managing the IBI Group from Nidco to Nipdec;

October 30: the implementation facilitation agreement between the Government of Trinidad and Tobago and the Province of Nova Scotia was signed.

In 2013:

April 04: the Ministry of Transport confirmed emphasis on the following sites:

Frederick Settlement;

Arima;

San Fernando;

Port of Spain; and

Tobago.

October 22: BCG was engaged to provide consultancy service for phase two;

February 27: Ministry of Transport confirmed that phase two of the MVA programme would be executed with planned opening of access centres. In wave one, the head office, Port of Spain; wave two, Port of Spain, Arima, San Fernando, Scarborough; wave three, counter services only in Chaguanas, Point Fortin, Princess Town, Sangre Grande, Rio Claro and Roxborough.

On August 18, 2014: Ministry of Transport requested that Nipdec and the IBI Group review the overall design concept of the MVA access centres to reduce cost.

In addition, Madam President, since 2012, to date, there have been approximately 40, and I want to repeat, 40 pre-LRC and LRC meetings, and I can

go through each of the dates for those 40 meetings which I would [*Desk thumping*] not burden the Senate with at this point in time.

I could go on, Madam President, but from the list of dates I have just read out, and from the 40 pre-LRC and LRC meetings, you have a different picture that all was not static and stagnating in this project as we were led to believe by the previous speaker. Indeed, what it only highlighted and underscored is that what we inherited were woefully deficient in readiness and, as a result of that, we felt compelled to engage in a number of serious renovations in this particular area.

I turn my attention now to some of the contributions made by Sen. Al-Rawi. In a previous debate I remember at committee stage I attempted to make a contribution in that committee stage and Sen. Al-Rawi got up and said, "This is for practitioners". I think he withdrew it afterwards, you know. [*Interruption*]

Sen. Al-Rawi: And I withdraw it again.

Sen. The Hon. D. Maharaj: And he withdraws it again. I am not holding that over him. But being a non-practitioner as I am, I had a cursory look at the law. My law profession is in litigation [*Laughter*] so I have been to the courts perhaps more than some attorneys. [*Laughter*] He cited clause 215 which is known as the Good Samaritan clause as one of the deficiencies of the Bill, but if you look at the existing legislation, Madam President, section 79, the same clause word for word, comma for comma, is here. Let me quote here, least he thinks a non-practitioner cannot read the red books:

> "79(1)(a). "if any person has been injured in the accident, the driver shall render such person aid, and if the person wishes to be taken to hospital or to a doctor, or is unconscious, convey or cause to be conveyed the injured person without delay to the nearest hospital or to a doctor;"

This is word for word in clause 215. Now, has this piece of the Bill, this clause— [*Interruption*]

Sen. Al-Rawi: Where is the penalty?

Sen. The Hon. D. Maharaj: Well, you could read that. I am sure you are competent as a practitioner.

Sen. Al-Rawi: That is the crux of the matter. You have to compare apples with apples.

Sen. The Hon. D. Maharaj: This section in the Act that is going to be repealed, what mischief has it caused since its enactment in 1962. Are we seeing people picking up accident victims on the side of the road every day, breaking their neck, toting them to a doctor here and there as a result of that? Clearly not.

This here I think is a safety net rather than the rule. Persons are much more educated in our society to know that if persons are the victim of some unfortunate vehicular altercation that they leave them for the professionals. Now we have EMS and so on, and as a result of that my friend here, Sen. Hadeed's former business was not on the receiving end of claims and so on.

2.45 p.m.

So clearly, that clause did not cause any sleepless nights for legislators nor the administration. So while I recognize that we should remedy it here, I do not think it is such an egregious error as he would have us believe.

Also, Sen. Al-Rawi pointed out to clause 29(1) of the Bill which here is on page—clause 29(1) where it says:

> "The Registrar and any Motor Vehicles Enforcement Officer shall, in the exercise of his powers and duties conferred under this Act, have the powers, authorities and privileges and shall be entitled to all the immunities given by any written law from time to time in force to any member of the Police Service."

And he speaks to this as if we are conferring some new power, new authority, new oppressive introduction of law to licencing officers. So licensing officers will now descend on the nation and wreak havoc because of this. That is the impression that he is creating in the minds of the uninformed. But again, if you permit a non-practitioner, lowly non-practitioner as myself, I go back, again, to the original red book. Section 5(1) and I quote:

> "In the exercise of powers and duties conferred on him by this Act and any Regulations made thereunder, any Transport Officer shall have the powers, authorities and privileges and shall be entitled to all the immunities given by any law from time to time in force to any member of the Police Service."

"But wait nah, this sounding like that same thing". [*Interruption*]

Sen. Al-Rawi: Read the liability side of it.

Sen. The Hon. D. Maharaj: I am a non-practitioner. [*Laughter*] So, there has not been an avalanche of abuse by licencing officers because when my goodly friend across there quoted the section, he did not quote the whole section, but when I am quoting the relevant section and responding, he wants me to quote out the whole Act and eat up my time with what he wants me to say. Your colleague will read out what you wrote for him just now. Right?

So again, as a non-practitioner, that is my interpretation. I am sure Sen. Vieira will be able to add more. But clearly, some of the fears that are being peddled here and elsewhere have not found manifestation in the substantive legislation that has existed for a number of years. Also, what caught my ear in his contribution is Sen. Al-Rawi's citing of clauses 17 and 29 where he talks about conferring secrecy with the appointment of the sub-committee. So again, I go back here where:

> "The Board may appoint such standing or special committees as they think fit…in the performance of its function under this Act or any other law and may refer or assign to the committee any matter as it thinks fit."

And he juxtaposed that with clause, I think, 27 where it says—it speaks to the issue of confidentiality—the confidentiality clause.

Now, having worked in the Statutory Authority myself and now in the position of supervising others, the practical implementation of this is one that the board would appoint, invariably, officers of that Authority which, by the Act itself, is according to clause 27(4):

> "Subject to the approval of the Authority, the appropriate Service Commission and with the consent of the officer…"

—speaks to the issue of confidentiality, swearing a secrecy clause.

So, the officers of the Authority are already so bounded to secrecy. So when you set up this committee, you are not going to grab people on the road, you are not going to go outside and say, "Listen, you travelling in ah maxi so you qualified to be on ah committee". You are going to get your qualified competent officers to constitute and populate that sub-committee of the board. In the event, you need to co-opt somebody from outside, they are not going to come and be on any committee of the Motor Vehicles Authority for free. You would have to engage them with a contractual arrangement and in that contractual arrangement would be an in-built confidentiality clause. [*Desk thumping*] So this is the real application of law and this is why I am so grateful that the Parliament is not populated only by attorneys. [*Interruption*]

Madam President: Hon. Senators, the speaking time of hon. Sen. Maharaj has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. F. Al-Rawi*]

Question put and agreed to.

Sen. The Hon. D. Maharaj: Thank you very much, Madam President. Thank you very much, Sen. Al-Rawi and colleagues. [*Crosstalk*] This is why—I want to repeat, eh, I am grateful that our Parliament, we have members of the clergy here, we have vets here, we have medical doctors here, we have energy experts on this side and so on; we have a variety of people and we are not burdened with only having legal practitioners here today, [*Laughter*] because I think they are caught up in their own world and the practical implementation of some of these laws escape them. So I am grateful that we have the collective wisdom of diversity in the Parliament.

Now, the Senator spoke about the Opposition's position at the time that we instilled fear in the population by saying that if the MVA was to come, public servants would be fired, and so on, and we whipped up public fear in order to get political support in an overarching drive to run the PNM out of office. But, I wonder what is in the minds of those public officers in the Ministry of Local Government at this point in time? What is in the minds of the public officers in the Ministry of Justice at this time? What is in the minds of the public officers in the Ministry of the People and Social Development at this time? What is in the minds of the officers in the Ministry of Tobago Development at this time? When the Opposition, on their public platform, have indicated they are going to shut down all those Ministries. [*Interruption*]

Hon. Senator: Cut throat!

Sen. The Hon. D. Maharaj: They are going to cut the throats of the existence of those Ministries at this point in time. Those public officers may be on the breadline tomorrow. If the PNM comes into power on a Thursday, Friday, "dey out ah ah wuk". These public officers have to be wary for their jobs. Their families have to listen very carefully from the utterances of the "balisier brigade", because they risk losing their future if they invest it wrongfully. [*Desk thumping*]

We are sensitive to this, because we, as has been said, we are not "ah big people party". We do not own buildings on Alexandra Street. [*Interruption*]

Sen. Al-Rawi: Or mansions in Palmiste.

Sen. The Hon. D. Maharaj: Or we do not own three-storey houses in Hillsborough with swimming pool below.

Sen. Al-Rawi: Or mansions by somewhere else.

Sen. The Hon. D. Maharaj: So we are not "ah big people party". I have no problem with that, you know, Madam President. I feel comfortable with every Tom, Dick and Harrilal on the street because we have a common touch. We are a Government for the people and by the people. [*Desk thumping*] Unlike my friends across there, they are "ah big people party" across there. And you see, they are a stranger to the realities on the ground.

You see, my friend across there spoke about the Nova Scotia model and the RF ID, and went to length about how it would help crime detection and crime prevention and crime everything. But this RF ID which was put out by Nova Scotia, did he tell us the whole "katha" there, the whole "kahaanee" finish with that? I mean, when I quoted from the red book here, my friend wanted me to go on and quote other sections and so on, but when he made his contribution about RF ID, he stopped the "katha" short. Did he tell us which province in Canada used RF ID? The Nova Scotia, who you are buying it from, does not use it. So, do you not find it strange, Sen. Dr. Kriyaan Singh, that the man who "sellin yuh something eh using it heself"? That telegraphs to me something needs to be asked further.

And the RF ID system, if you are bent criminally, it is something easily to get around, you know. "When yuh take ah hammer and yuh hit and dais it, yuh know, it eh wuking after that". It is easily damaged and destroyed. In fact, you might not even do it intentional, if you park up too close to a curb and the concrete bounce it too hard, it break. So, I do not know how practical the RF ID system is given the fact that the province that is advancing it here in Trinidad is not using it themselves. So, I think the Minister of Transport was correct in being very careful with this issue of utilizing the RF ID or not using it as the case may be.

The red-light camera system which was articulated before is provided by clause 205 in the Bill and this really is ground-breaking. It will be the first of its kind in Trinidad and Tobago and it really brings us in speed with our international colleagues as it is used also in the United Kingdom, the US as well as in Canada. This device will allow us to capture precisely pictures and the traffic light is the ideal place to put it and have it situated. Sen. Al-Rawi raised the issue of the speed arches being used and by its very definition, it might not be the most prudent place to put a camera. Again, speaking about the lack of the PNM's ability to connect with practicality.

We have done a number of pioneering works in terms of the transport system. The Minister of Transport spoke to a few of them including the development of a mass transit plan which is going to be unveil shortly which will attempt to address some of the traffic problems. Again, it is something which he has engaged considerable consultation with stakeholders and, in a short space of time, he will unveil this to the nation at large. But we have most recently, and I wish to commend the Minister of Finance and the Economy as well as the Minister of Transport with finally delivering a promise to the Maxi-Taxi Association. [*Desk thumping*].

And again, my friend spoke about delivery, I want to find out from Sen. Al-Rawi and his colleagues to follow afterwards, in 2005, the then Minister of Works and Transport, Colm Imbert, trying to dissuade persons from buying the 12-seater maxis, encouraged them to go the route of the large 25-seater maxi. And said, "Listen, if yuh buy the 25-seater maxi, we are going to give you ah tax rebate and we are going to give you your VAT rebate, so you are going to get back your money, what you paid out there". On average, it worked out to be $116,000 per maxi and about 3 to 500 maxis—owners and operators—participated and invested in large maxis based on a promise by the Government.

Do you know that up to last week, those maxi-taxi people were waiting? Could Sen. Al-Rawi tell me: what caused the delay, year after year, that the PNM administration saw it fit to ignore its promise that it made to the Maxi-Taxi Association [*Desk thumping*] to give them a rebate? Imagine an operator, an owner, hearing the word and promise of a Government Minister and the Government of the day saying, "We are going to pay you back your money, invest in this, do away with the small maxi", and taking the leap of faith, investing their hard-earned cash, thinking that they would get back this money from the Government, having to wait almost a decade and having to wait finally for the People's Partnership who honoured a PNM promise of rebate. [*Desk thumping*]

3.00 p.m.

Sen. Larry Howai and myself, acting for the Minister of Transport who was out of the country, finally last week Friday, delivered to the Maxi-Taxi Association on that promise of paying the rebate—[*Desk thumping*]—which is amounting to some $35.5 million, which will be going directly to the Maxi-Taxi Association. And that is the level of commitment.

[SEN. HELEN DRAYTON *in the Chair*]

That is the level that we have to the transport stakeholders to ensure their future development and enhancement of the sector as a whole. Madam Presiding Officer, welcome to the Chair. With those few words, I thank you.

Sen. Avinash Singh: Thank you, Madam Presiding Officer, for this opportunity to contribute on the Motor Vehicles and Road Traffic Bill, 2014.

Whilst I must agree with probably one statement made by my hon. colleague, the previous speaker, Sen. The Hon. Devant Maharaj, is when he said: I agree that the debate must start. I agree, it must start. But in that same breath, it does not mean that as a Parliament, we must simply rubber stamp a piece of legislation containing just random words placed after each other that does not make sense. So I will try to identify some reasons for this approach.

In fact, let me try to respond to some of the things that Senators prior to me spoke about. Madam Presiding Officer, Sen. Maharaj went on to list, in probably 30 minutes of his contribution, some of the things that he would blame the PNM for in not having this legislation off the ground. But I would like to add to that, Madam Presiding Office. It is not PNM revisionism, it is about this Government accounting to the population about their management, with the largest Cabinet in the Commonwealth, the largest amount of fired Ministers in one term and we are just months away from a general election. So when hon. Senators come here to speak for the Government, they must be prepared to tell this country that in their administration, close to $400 billion would have been spent and how they can account to the people for that expense. He mentioned over six years of having the documents for the restructuring, but I would simply add they simply failed to implement after close to five years.

This legislation, as have been identified by speakers on this Bench, is simply littered with problems. While the intention may seem good, this piece of legislation is very poorly drafted and simply does not address our current issues at this point in time.

Madam Presiding Officer, the hon. Member went on to list the rapid rail and the $256 million prepared that was the principal and interest. But when one right-thinking person compares, that simply is half of LifeSport. It is simply 6.7 Adolphus Daniel. The sum of $256 million is 36 fire truck fiascos. It is simply 256 NGC fetes. So that is the way this UNC Government deals with mathematics. [*Desk thumping*]

The Motor Vehicles Authority building, $256 million, is equivalent to one of that authority, one of that building, to simply one company called SIS. This $256 million that this hon. Senator spoke about is only half the excess in the contract given to SIS for $450 million to build the NGC waste water plant. And then they want to compare that rapid rail to what they have to offer. [*Crosstalk*] I am coming to that. Madam Presiding Officer, this Government in this five years has given this country no explanation. Five years of UNC rule and no explanation, no accountability for $400 billion, none, absolutely none! [*Desk thumping*]

He raised the rapid rail. I will spend a few moments, with respect to that rapid rail. If you want to compare that rapid rail, and yes the feasibility study, that project has serious benefits for this country. That is a proper project. It is a long-term benefit, a vision of a developed nation. Madam Presiding Officer, Dr. Rowley spoke to a proper completion of a feasibility study to implement that effective and efficient transport system, as we are on the topic of motor vehicles and road traffic management.

This long-term project that we speak of is a solution to fixing some of the traffic problems in this country. It is a salvation for lives in traffic. It will result in better quality of living for all. [*Desk thumping*] When you sit down, just comprehend, just put some thought into this. Just imagine you walk out your homes, you are there, you are met with your local taxi service which carries you to a point that facilitates your movement from point A to point B and let us just say you are moving from Port of Spain to San Fernando. It took me two hours to reach to Parliament just from Chaguanas today and in normal circumstances; let us think it is a Sunday, that same journey would take me 15 minutes.

Madam Presiding Officer, you picture yourself going out and wanting to go to a destination with your family and you hop an air-conditioned train and in minutes you reach your destination, hundreds of thousands of manpower hours that are lost to traffic this programme and this project will increase the ability of this country to be that of a more productive one where productive manpower hours are concerned. We speak to not only that, we speak to the increase of and equalization of value of land throughout this country where this rail would go. In my opinion, that is economic prosperity for all with a new PNM government. [*Desk thumping*] We speak of giving the people hope.

Madam Presiding Officer, when you compare the Singapore model to ours, and you look at where, even their motto—Land Transport Authority under the Singapore Land Transport Authority—you see their motto: "We Keep Your World Moving". If you were to compare that to Trinidad and Tobago a simple hazard or accident on this nation's road would cause massive gridlock in every single street, every single highway. We saw that recently when the police carried out their exercise. But this green transport that the Singapore model has adopted, it goes as far as comparing carbon footprints.

We heard earlier the hon. Minister of Transport, by virtue or statistics, gave us the number that we have somewhere in the vicinity of 730,000, or just about, registered. We later heard hon. Sen. Maharaj spoke to just about half of that actually on the road at any one point in time. But when one looks at our carbon footprint, where vehicles are concerned, let us say out of that 730,000 vehicles on the road, half of that is there at one point in time, you are looking 682,550 kilograms of Co_2, carbon dioxide, per 10 kilometre transport. So has this Government really taken into consideration their plan and their vision of increasing the number of vehicles by adding more buses? I do not know where these buses are going to run because they are going to compete for space, in all the nation's road. Have they really thought through our contribution to pollution where carbon footprint is concerned in the international and worldwide market? Is this their way of giving this population an alternative transport system of being effective and efficient? The answer is no!

When you look at the Singapore model you see they have a plan. They have a vision, in terms of moving the transport system forward. Just a glimpse into their land transport plan, 2013—the Land Transport Master Plan 2013. You would see they have identified three areas for effective transportation where motor vehicles and traffic is concerned and they would have done some surveys recently and from the input gathered they have identified three aspects of travel that commuters value most. It is similar to our system here, Madam Presiding Officer, because when you look at some of the things that they would have identified, the first one:

"More Connections

Connecting you to more places where you work, live and play"

In essence, you would have shorter waiting times, and so on. We want a:

"Better Service

Improving reliability, comfort and convenience, no matter which mode of transport you use

Liveable and Inclusive Community

Building and running our transport system with everyone in mind"

Madam Presiding Officer, this Singapore model also identifies and is directly related to our problems here because 12 per cent of all the land in Singapore have gone into roads, while 14 per cent of the land have gone into housing. We can share similar situations here in Trinidad and Tobago because we also have limited land resources in this country and we cannot simply build more roads without taking into consideration our other industries and other areas that require land, our land use policies, and so on.

So, what they have sought to do is to implement systems and structures to try to curb the traffic problem and try to give the citizenry an alternative to having to sit in their own vehicles and go through from point A to point B in traffic.

When you compare, having been to some of these countries myself, having been a user of the train system even in London and the United States, you would see the comfort, the essence and the benefit of travelling in a type of system like this.

Let me move on to some of the items I have tried to identify in this Bill that simply add to our voice in this august Chamber, that we the Opposition think that this Bill is simply still in its gestation period and not ready to be passed in this honourable House.

Madam Presiding Officer, before I go forward you would hear the hon. Senators opposite calling this side "big people party". I take offence. I am simply a farmer. "I am not no big people party" and I am not that type of category that they would look to the mirror and call those on this side. Madam Presiding Officer, they mentioned, they made a promise to the Maxi-Taxi Association but they also promised the PH drivers, and what is the status of that promise? [*Desk thumping*]

3.15 p.m.

Madam Presiding Officer, with respect to this Bill, Part II, clause 13, and as I said, I will try to identify some of the issues I personally have, as I said, I am no lawyer. I am "no big people party or big people party member". I am simply a farmer, trying to interpret this Bill. When you look at the immunity clause 13, Part II, which speaks to the immunity of board members, and it reads:

> "A member of the Board shall not be held to be personally liable for anything done, permitted to be done or omitted to be done in good faith in the exercise of his duties under this Act."

So, a simple question with respect to that, Madam Presiding Officer, is who will bear the liability? In fact, the State would have to bear this liability, but if you are giving persons authority, that authority should have some sort of responsibility for those in authority, for actions they would take.

Another issue I identified, Madam Presiding Officer, it is with clause 23 and clause 24, which speak to the Chief Executive Officer and the Registrar. In fact, what we are trying to legislate here, is the ways in which the CEO and the registrar would have to be removed. I simply add my voice in indicating and recommending that the recommendation—in fact, clause 10, Part VI, (a) to (f) be used. Because if we are giving persons this immense authority, for example, the Chief Executive Officer, and we are only saying that this person:

> "…may be removed from office only for cause, including misconduct in relation to his duties or for physical or mental inability to fulfil the responsibilities of the office."

The appointment of a member of the board via any Minister— we are listing situations where these persons can have their appointments revoked.

> "(a) is declared bankrupt in accordance with the laws of Trinidad and Tobago or any other country;
>
> "(b) becomes a person of unsound mind;

(c) is, for whatever reason, incapable of performing or unable to perform the duties of a member;

(d) is absent for three consecutive meetings without leave of the Chairman;

(e) is convicted of an indictable offence or is sentenced to imprisonment for a term of six months or more; and

(f) misbehaves in office or brings his office into disrepute or for any other sufficient cause."

So, in one hand, Madam Presiding Officer, we are simply telling registrars and CEOs, that you can be dismissed for simple reasons, and comparatively, we are telling persons appointed by the Minister, they can have their appointments revoked by a list of various other situations. So, I would simply ask that it be equalized and balanced in approach with respect to that.

Madam Presiding Officer, another concern I would have to raise is Part VI, the issuance of a driver's licence. We saw today, we have heard a real-time experience from my colleague, Sen. Dr. K. Singh, and we have heard the hon. Minister also mention incentive structure currently in the Licensing Office. This is a serious situation, a serious problem this country has to endure, every single day when licences are given to persons. In this section we see where new drivers are emerging every day, and new drivers are being allowed on our nation's roads. The process by which these drivers acquire their licences, as mentioned before, some sort of intervention with incentives always seems to be the order of the day. How we as a nation, how we as a Parliament can try to effectively identify, and put forward legislation.

We can put the best legislation in place, but if we have no proper process of monitoring or managing the system, it will simply continue. That incentive programme, I will not hide behind the disguise of calling it an incentive structure, but it is a bribe. Everywhere you go, Madam Presiding Officer, you have to bribe or grease somebody's hand just to get your way. It is all about who you know, and a better term, who knows you. Why should it be that we as a nation, a structure is giving persons licences who are not qualified in many areas, and these are resulting day after day in accidents, minor and major. It is resulting in innocent persons driving, losing their no-claim discounts, and so on. That system, Madam Presiding Officer, ties directly with the insurance scheme of how this country goes hand in hand with having a motor vehicle insured and so on.

I did not even know having had insurance for my vehicle, and my parent's vehicle in my name for quite some time, and driving since the age of 17, I did not even know you could be right and you could be driving, somebody bounce you and they are wrong, but if you go to the insurance claim or the company, you lose your no-claim

discount with respect to claiming for your vehicle to be repaired, and so on. So, leave it up to me, I would simply say, you know, that insurance companies, they really know how to make money; simply. Not throwing any stones in anyone's corner, but at the end of the day, it is a fact, and it is reality. [*Crosstalk*]

With the Motor Vehicles and Road Traffic (Amdt.) Bill, 2014, we need to have that level of balance where persons are not victims of this type of white-collar offence, if you want to go as far as that. But, Madam Presiding Officer, that is the unfortunate reality we live in, where, even when you go to the licensing office, and you apply to have a regulation, they would give you willingly, and I am not sure if it is the structure or the system, but they would give you a regulation date somewhere eight months after your appointment.

So, in essence, they are simply telling you, if you want to have your regulation date brought up, well, you know what to do. This is the order of the day. You speak to a lot of people on the ground, and you ask them, boy did you pay anything to get your licence? Yes, you paid the regulation. You paid the fees prescribed by the authority and so on, but at the end of the day, they also pay something. We need to get a track, and we need to get a hold on this structure, because it festers throughout the entire industry of where licence and registration and certification all these things are concerned.

Madam Presiding Officer, I turn now, to Part VII, the registration and certification of vehicles, clause 79(1), the tagging of vehicles. With respect to this clause:

> "Where a vehicle enters Trinidad and Tobago as part of a shipment, the Authority shall…
>
> (a) examine the vehicle at the point of entry to determine the purpose of the vehicle…
>
> (b) take—
>
> (i) the chassis and engine number where applicable, from the vehicle; and
>
> (ii) all other details necessary for the registration
>
> (c) the placement an electronic identification tags on the vehicle and record the information obtain pursuant to the section."

Madam Presiding Officer, while most vehicles enter this country on the role-on-roll-off scheme, where the vehicles are simply roll on to the boat, and roll off the boat, and enters this country. I do not know exactly how many vehicles enter this country in sealed containers. When you pass along the highway and you look

at some of these foreign used or even these car dealers, you see vehicles being offloaded from containers. So, I simply want to know if the tagging of vehicles would also take into consideration vehicles that are not roll-on and rolled-off, that we have some mechanism and this law would cover persons bringing in vehicles via containers.

Madam Presiding Officer, clause 94, which deals with the validation certificate of vehicles. I simply would like to make reference to Part—clause 94(3)(a), which indicates that:

> "in the case of a commercial vehicle or a private motor vehicle with a Tare weight in excess of 2500 kilogrammes or agricultural or industrial tractor, produce a vehicle to the Authority for inspection and shall pay the fee specified in the Fifth Schedule;"

Madam Presiding Officer, in many cases, we have heard the hon. Minister indicate today, that fleets of vehicles can be inspected and registered in groups. This is simply to minimize the vehicular traffic that is associated with getting vehicles of large contingent, for example, when a company sells, let us say, 20 vehicles and having to go to the licensing office. I would also like to add that this system also be beneficial to these where inspection is concerned.

My own opinion here, Madam Presiding Officer, where, for example, agricultural vehicles or agricultural tractors are concerned, it is very difficult—and I am speaking on behalf of many farmers here, it is very difficult to have your agricultural tractor moved from your farm to licensing office every single year, to have that inspected. We suggest that we could pay the travelling for those licensing officers to come down to the site, and have those heavier machines and agricultural and industrial types of machines and tractor be inspected on site. As to also minimize the traffic, because, I mean, the common man would know if a tractor was to be driving on the highway going up to the licensing office, the maximum speed of that tractor may not exceed probably 20 kilometres per hour. Trust me, you do not want to be behind a tractor on the highway, or behind a tractor.

Part IX, which deals with safety and other requirements of a motor vehicle. I have a concern here because safety and other requirements of a motor vehicle simply in this Bill, deals with seat belts and restraint. Now, internationally, you have seen where vehicles are coming now with airbags, and many accidents that occur on our nation's roads, people would tell you that the airbags would have saved their lives, and so on, in vehicle collision and major car crashes and so on.

So, in this part of this legislation, I would have liked to see at least airbags be also included where safety and other requirements of a motor vehicle is concerned, because it is simply unacceptable that one person can go to a new car lot, and I am also speaking from experience, you go to a new car dealership, and so on, and you find out the options of vehicles being available for sale, and they actually have vehicles in this country that have absolutely no airbags and so on, at a reduced cost.

The point here, Madam Presiding Officer, is that we simply should not even be allowing vehicles with these minimal security features to enter our shores, because—and if you were to compare the foreign used car dealers, in fact, all foreign used cars entering here, come with some degree of airbags, if it is just one on the steering, but they actually come, but I am talking specifically to new car dealers in this country. You can actually go and get a vehicle being sold and offered here with no airbags. So, that is one point I have with respect to that.

Earlier, the hon. Minister also indicated and mentioned the liability to drivers and their insurance, when the State suffers losses and damages due to reckless driving, let us say knocking down of traffic lights, knocking down of light poles and so on. I simply recommend that this arrangement also be reciprocal, because I will tell you, many road users today, Madam Presiding Officer, incur damages and loss of property due to the failure and maintenance of our own roadways and our own highways, byways and so on, bridges and so on.

So, just imagine you are driving down the road in your very expensive antique, and you will hear hon. Sen. Dr. Mahabir talk today about his very expensive antique cars. Just imagine you are driving down the road with your rare, expensive, vintage antique car, and you hit a pothole, no fault of yours, and it damages your vehicle. When you go to your insurance, that is another issue to try to get the liability sorted out and the repairs and so on.

3.30 p.m.

So, on one hand, the State can also be liable. In fact, you see it in most developed countries. In most countries, you actually see people suing the state when things go wrong with their own vehicles and so on. You hear taxi drivers and all these drivers—maxi-taxis and all these people—always raising the price of transportation that the population has to incur, and their one underlying factor is the condition of the roads, the state of the roads.

So when you pay motor vehicle tax—when you buy a vehicle and you pay motor vehicle tax, this should also be reinvested in trying to keep the roads, because it is very hard for people to understand that Trinidad and Tobago, a pitch-rich country like ours, would actually have roads in such deplorable conditions as we see throughout the years in terms of having transportation raised because of that problem.

Madam Presiding Officer, I would like to turn to some of the offences listed here now. With respect to clause 201:

> "A person who, without the knowledge or permission of the owner, gets onto, or attempts to manipulate any of the levers, the starter, brakes or machinery of a vehicle, or in any way interferes with, or damages a vehicle while the vehicle is on a road or parking place, commits an offence; but a person shall not be convicted under this section when the vehicle is obstructing his own or another vehicle."

So, as I say, I am not a lawyer, so one person just reading this would let you know that it is okay if someone parks in front your driveway; it is okay to go and tamper with that person's vehicle; it is okay to damage that person's vehicle. Simply, I cannot see the merit in it being okay, because that vehicle is obstructing your own vehicle. I simply do not see any merit in that whatsoever.

With respect to speed limits, Madam Presiding Officer, in this country we have seen a culture of people—in fact, probably 1 per cent of this population—I am just thinking out loud—actually follow road traffic speed limits in this country. If you try to drive at the maximum speed limit on our nation's highway, 80 kilometres per hour in some places, you would realize that you actually feel as though you are reversing on that highway. This is probably because we need to adjust the speed limits or tighten up our legislation with respect to speed limits in certain areas, because it does not make sense you have laws and people are simply not abiding by them, people are not following the law and they are there on our books.

Madam Presiding Officer, I also would like to speak to some of the offences, especially where unsecured loads are concerned in our ability to monitor and actually prosecute this matter. Why should we wait for someone to be killed as in the case of the late Jocelyn Taylor who would have lost her life grisly, as the newspapers would have quoted it, when a three-ton truck was transporting steel? That steel would have come into contact with the late Jocelyn Taylor's vehicle and she lost her life because of that. So, we need to at least try to implement our current legislation where some of these are concerned—unsecured loads and so on, because, as I said, we could have the best legislation, but if nobody seems to implement and try to apprehend or prosecute lawbreakers in the society, then it would be like a free for all. People would just say: "Well, that law is irrelevant."

We also see people on a daily basis breaking the road laws, for example, governing the maximum load on roads and bridges. You see 10-ton trucks using three-ton bridges, and you see sometimes 10 and 12-wheeler trucks, dump trucks, using residential, rural or even agricultural access roads and damaging these roads. We need to have proper mechanisms in place, because I do not see the merit in

actually having a truck, let us say, in Toco or even Icacos having to come up to Caroni, Kelly Village, to be weighed and so on. We should have weighing bridges throughout this country where once an officer or the authority authorizing personnel suspects someone is breaching the law in terms of the weight of their vehicle and so on, they should be able to go within the area and have that sorted out and rectified.

Madam Vice-President, I could go on and on. In fact, I see some legislation here—[*Interruption*]

Hon. Senator: Madam Presiding Officer.

Sen. A. Singh: Sorry, Madam Presiding Officer. My apologies. While reading through this very comprehensive Bill, I saw restrictions on persons being carried on bicycles. Now, many persons in the society, up to this day—in fact, I would give you my own personal story with respect to that. Clause 213:

> "No person shall, other than himself, carry any other person on a road or highway on a bicycle not propelled by mechanical power unless the bicycle is constructed for the carriage of more than one person."

With respect to this, Madam Presiding Officer, if we are going to allow more than one person to be on a bicycle that is constructed for that purpose, simply the suggestion here is that: who will decide the use of that bicycle? In fact, if I want to do it myself and build my own bike and the welding or whatever is not strong enough, that could even lead to more catastrophic effects. So, we should at least clear up this legislation with respect to how it is going to be rolled out. When you look further in clause 214:

> "A person shall not, while riding a motor cycle or a bicycle not propelled by mechanical power, on a road or highway—
>
> (b) ride such motor cycle or bicycle without at least one hand being on the handlebars of such motorcycle or bicycle."

And there is a fine of $500.

Madam Presiding Officer, my own personal experience with having to be towed on a bicycle at the age, I think it was four or five or just thereabout, and for those of you all who would recall, in those days would have had very prominent bicycles called Chopper, the Chopper bicycles. As I said, I came from very humble beginnings so up to then, up to now, I am no big people party. I was towed to and from—probably it was illegal back then, who knows—my home to primary school on a daily basis by my uncle.

In that process, Madam Presiding Officer, my foot slipped off the front wheel, because I was being towed, and I suffered a broken foot when I was just at the tender age of four, being towed by my uncle to school. So this I could relate to, personal experience where towing is illegal. I would like to encourage all those parents who still practise that because they are simply not of the calibre of big people party, they simply need to abide by the law so that they do not end up in my situation having suffered a broken foot.

Madam Presiding Officer, this legislation, I have tried to identify some of the concerns I personally have in moving this country forward, in moving this country to First World status where transportation is concerned. Having read this piece of legislation, I would like to join with my fellow colleagues of the Opposition and really suggest that this legislation is not ready. It is simply, in my opinion, badly drafted. It requires a little more attention and microscopic scrutiny since it has potential to affect the lives of almost every single citizen and those citizens we are here to represent.

Madam Presiding Officer, this legislation, it is my request that it goes to a joint select committee as well so that we get the best of all the minds that are here in this august Chamber and, by extension, those who would like to also contribute in making proper legislation that we can all be proud of.

So, with my closing comments, transportation in this country is key to every single person in this country, every single person in this nation. It affects all of us, and we would like to see the day when we can go out of our homes and not meet traffic build up right in front our gate. We would like to see an effective transportation system be implemented because that is the real vision of this country right-thinking citizens.

We want a better life. We do not want to have to waste hours of our time in traffic as it relates to moving from point A to point B, and that is something that the people of this country can look forward to under the new People's National Movement Government soon to be when we implement a massive reenergized transportation system in this country that we will all be proud of.

Madam Presiding Officer, I thank you. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Madam Presiding Officer, for granting me this opportunity to speak on this Bill this afternoon. And first, let me say how indeed pleasing it is to see two presiding officers, one after the other, women of this country [*Desk thumping*] indicating that Trinidad and Tobago is advanced in certain areas. It may not be advanced in other areas, but

with respect to gender equality, it is indeed heartening to see two presiding officers in the Chamber in the same day, and I commend you and I trust having buttered you up, Madam Presiding Officer, you shall allow me some leeway. [*Laughter*]

Madam Presiding Officer, this piece of legislation is necessary legislation. We do need to reform the manner in which as a country we administer transport arrangements and the reason, of course, is a simple one. We need to drive on the roads, but we understand that there must be rules which must be followed, and there must be laws with which all of us must subscribe if we are to commute safely without injury to ourselves and to others. We need a supervising authority; we need an arm of the State and we need for this arm of the State to be an efficient arm.

In addition to that, Madam Presiding Officer, the reality is a transport Ministry or a transport authority is usually very critical for any Government which wishes to win an election. What is the connection? First off, we know that the first experience a young citizen has with any arm of the State dealing as an adult is usually a young person getting his learner's permit for the first time. After that, he deals with other areas of the State, and that first experience is usually the experience the individual has dealing as a young adult with the machinery of the State.

I recall in 1977 that experience that I had getting my learner's permit was not a pleasant one, so much so that at the age of 17, I was induced to complain to the *Trinidad Express* and they did reproduce my complaint, "Oh those public servants". It was my first publication. I was then in high school, because we needed a good entree in interfacing with the State.

For those who wish to undermine the importance of this, I recall the experience of former President of the United States, Bill Clinton. In his book, he mentioned the particular episode. He was duly elected as a young Attorney General in the State of Arkansas, and as a progressive politician he attained the governorship shortly thereafter, but after one term he lost the governorship. He did not know why. After all, the economy was growing, people were happy, roads were being built, everything was in order, but he just lost the governorship.

3.45 p.m.

So, being a wise politician that he is, he went out to ask people, "But I did everything why did I lose?", and they told him this, "You raised the motor vehicle tax from $25 to $50". He said, "But is that all?", and the responses he got from the common people were the following: "You raised it, you did not consult with us. It may be $50 to you, Mr. Governor, but when I left my home in rural

Arkansas I only left with $25 in my pocket to pay that tax." In those days, in the 90s, there was no Internet and it was not widely broadcast. And when they came they said all they saw at the Ministry of Transport's office was a smiling face of the Governor and the scowling face of the cashier who told them, "You will have to return because you need $50 to pay this tax", and out of annoyance, simple annoyance, the mass of the people decided to teach him a lesson, "You are not going to win the Governorship because you raised this fee". And then he asked them, "Well, will you vote for me again?" He thought his politics and his career was done, they said, "Yes", and he said, "But I raised your tax", and their response was, "Well, having done a foolish thing, we know you would not do it again". So, he was able to return as Governor and then, of course, became President.

But the reality, Madam Presiding Officer, is that we do not understand the degree of involvement of the citizens of our country with the transport authorities. Because a driver's licence is such an important piece of identification, we need to get it simply for identification. We need to have a facility in driving. It is a necessary skill. All of us in the society—well, I should not say all, but maybe 95 per cent of us—do have to interact with this agency intermittently. On some occasions, it used to be one year—and now, I think, you can renew your driver's licence on a five-year interval. But we do have to return, time and time again, and so there is going to be this particular relationship with the Authority.

Now, whenever an authority of the State has the power to grant an essential document, you are going to get a potential for mischief, because it is a scarce commodity. It is so for passports, it is so for the driver's licences, and it is so for the permits, which the members of the State apparatus can grant. This is where you will find the potential for wrongdoing. We know, this is not hearsay, that in order to get a driver's licence it is not sufficient to be proficient in driving. What is necessary is for you to be able to pass on to the examining officer the sum of $500. This I have had personal experience, I am not speaking out of a hypothetical situation. This is a reality, and, now, these officers have found a clever way so that they will not be nabbed by the police, who would not care in any event, in that they billed it into the fee at the examination. It is called a "use-of-car fee". They will tell you to use the car, on the day of your driving test you have to pay $600, and, so, the driving instructor will then pass on whatever has to be passed on to the individual. All of that will be tied in to some of the concerns I have with the Bill.

We need the Bill, but what we do need is for an authority to provide for the population, the using population, a level of service that is professional and a level of service which recognizes that the citizen of Trinidad and Tobago is really at the centre of the Authority, [*Desk thumping*] and not the bureaucrats, and not the people who

administer the test, and not the people who tell you when you need a certified copy, "Come back in 21 days". Do you know, Madam Presiding Officer, that if you were to get into an accident today, through no fault of your own, and you file a claim with your insurance company, the insurance company will tell you, "Bring in a certified copy of your automobile", and if your certified copy is older than six months, they will say, "Go and get another because I was told that you need one".

Now, I did not realize every six months I needed to go and get a certified copy and pay $100 for it. So you get into an accident, you go, you apply for it, and you are told—well, 21 days to get something that I should be able simply to go onto the system and print in a nanosecond. And if I want it, of course, within a day, I would have to pay the inducement, or as Sen. Singh says, the blatant bribe. It is the reality. I will tell you my experience recently at the Port of Spain centre where I was able to get one. Why? Officers recognized me as Sen. Mahabir and they gave it to me right away, but there were people there who asked me if I could get it for them, and I said, "But this is a favour they are doing to me". They simply needed the copy for legitimate purposes, insurance claim, transfer their cars, whatever it is, and you can see the power of the bureaucrat, the power of the public servant to make the life of the taxpayer miserable. I will tell you something, if I were in electoral politics—I might get there, you know, it seems more active than on this Bench—but if I were in electoral politics I would fix that system, that vexing and vexatious system, like yesterday. [*Desk thumping*]

I would listen to the people. I would listen to the people who complain, the young people who complain that they have to pay these bribes. I would listen to all the people adversely affected with respect to the contempt they face when they have to deal with this essential agency. We normally can see in the press the problems with health care, and in health care the issues are life and death. So there is a death of a baby and it is taken up by the press and by the media, but what we do not see is the everyday systemic problem, the frustrations, the anger, the annoyance of the taxpaying population, the legitimate citizen, with the frustrations they feel in dealing with an agency, as currently constituted, which is a law and a power onto itself, which has little or no regard, scant respect for the regular people of this country, and this of course is my focus.

The issue is, will this Authority change the mindset of public service? And are we making provisions for members of the public, who feel that they have been wrongly treated, or who feel aggrieved, that they can have a legitimate arm of complaint? Many years ago, whenever people felt that they were affected or they were exploited by members of the police service, they had no recourse. Today,

there is a Police Complaints Authority, and members of the public can appeal to that Authority. I think we would need, somewhere in this new Transport Authority, to build into the Authority, a system of complaints where a member of the public who feels that he has been badly treated by the Authority can simply complain and can have his case be heard.

One of the problems with a lot of these authorities and decentralization, decentralized authorities, is that the further they are away and they are into remote areas we create fiefdoms, we create little kingdoms, we create little republics where people out there are in total control. They are able to establish relationships with a number of individuals, set up systems. So that it is their interests which are being served and not the interest of the people of Trinidad and Tobago.

Let me focus on the clauses, Madam Presiding Officer, with which I see the need for some kind of reconsideration and some change. Clause 10, it says that:

> "The Authority shall be governed by a Board of Directors, who shall be responsible for performing the functions of the Authority."

This cannot be right. The Board of Directors cannot be responsible for performing the functions. They are responsible for supervising the functions. The performance would be done by people on the ground. Now, when this Board has oversight authority on the public servants on the ground, I want to know that the Board is made up of people who understand what some of the potential problems can be.

We have, for example, representatives in finance, I understand, law, automotive engineering—I do not know why we need someone specifically in automotive engineering. I do not know how many automotive engineers we have in the country, specialists. Why not just mechanical engineering? But what I would like to see—I do not see the need for a traffic engineer or a business representative, but, Madam Presiding Officer, in this Board, what I would like to see is this: I would like to see, instead of a business representative, a specialist in customer service or marketing. Someone who is drawn from the private sector who understands what it is like to expand a customer base and to ensure that customers leave the agency with a pleasant feeling, as if they were worth something, and I think it is important in many areas of the State now because customer service is abysmally low.

We are not seeing in the State—and in the private sector we are also falling, and this is an area, I think, I would like to see a specialist in marketing and public relations, a field like that in the agency so that if in fact there are line officers out there who are treating the public with scant respect, the agency itself will be able to put into place measures to rectify the problem. I would like to see, in this Board, someone who is under 25 as a

representative of the young person. Why? We are saying now that a young person who is old enough to vote, he is an adult, he is old enough to get a driver's licence—well, the difference between 17 and 18 is not too great. In any event, at 17 you are going to apply for your permit, and by 18 you have your driver's licence, but what we are saying is that you are old enough to elect your representative in Parliament but you are not old enough to drive alone between certain hours. Now, I would like—since we are infringing on the right of the young person in this way, who is legitimately, by law, an adult in Trinidad and Tobago, I would like to see in the Board of Directors, the Board of the agency, a representative of the young person.

Let the young people tell us, or guide the Authority on a number of areas of concern to the young person, since the law infringes upon the rights of the young person. I think we need to do that, Madam Presiding Officer, for the simple reason, young people know plenty things that I do not know. They use this term call the hashtag. I call them "the hashtag revolution". I do not know what it is, but they go on Instagram—I do not even know what that is. They are in a different world and I would like them to guide me. So you—[*Interruption*]

Sen. Nicholas: That age cut-off is not at 25.

Sen. Dr. D. Mahabir: Okay.

Sen. Nicholas: In fact, you could get away with about 50.

Sen. Dr. D. Mahabir: Right. Well, AG, we will quibble on the age cut-off, but I would like—and I know there are some 50-year-old people who consider themselves young. I have news, 50-year-old is not a young man, he is an old man, better recognize that. Hair colour or no hair colour, the moment you own 50, you are old.

I would say 25 and under, I would like—and I am coming to the 50-plus—25 and under—Minister, give consideration because you will be appointing members there on that board, and I think I would like to get the representatives of the young person in this Authority. Particularly so, Madam Presiding Officer, that there are many young persons who are involved in accidents and we would like to get the views of the young in this Authority as to how maybe we could amend laws or change laws to cater to the young.

Second, Madam Presiding Officer, as a Member of the Board, I would like to see a representative of the *Association* of *Retired Persons* also, not 50, over 60, and the reason is we are infringing on the rights of the elderly as well, AG. We are infringing on the rights of the elderly by telling them that they have to take a medical exam, they have to take an eye test, by age 70 they have to come back

once a year. We are infringing on the rights of that individual who is a retired person. I would like—and there are many, many retired people—[*Desk thumping*] Yes, I think—[*Laughter*] So, I see I am getting some traction from the Government. [*Laughter*] I am now waxing, you know. Thank you, Sen. Hadeed. I am sure you will be able to sway your Members on the Cabinet to have a member of the *Association* of *Retired Persons* in there to advocate on behalf of the retired person.

4.00 p.m.

There are retired people who know they should not drive. There are many retired people—I saw a retired man 90, and this man was driving better than I can drive with all the facilities. So, since we are infringing on the rights of the retired individual, I would like to see them have a say as well in this Authority. That of course, in the committee stage is for the hon. Minister to determine.

Let us now move to an area with which I feel as if I have some expertise to comment. That is on clause 35—Financial Provisions.

"The funds of the Authority shall consist of—

(a) such sums as may be appropriated by Parliament for the use and operations of the Authority;"

Then we come on clause 36:

"Subject to subsection (2)…of the Exchequer and Audit Act, the Authority may borrow money required by it for the efficient exercise of its functions or for meeting its financial obligations."

Well, let us look at this thing carefully. In this country we have been creating many agencies, and in a time of financial scarcity, resource scarcity, we really have to ask ourselves whether, as far as it is practical, many agencies of the State are not self-financing without relying on the Minister of Finance and the Economy. Take, for example, an agency such as the Regulated Industries Commission. This regulatory agency should not rely on the Minister of Finance and the Economy for funding. It should, via levying charges on the regulated industries, be able to finance its operations as exist in jurisdictions. Take the Securities and Exchange Commission. The security—[*Interruption*]

Sen. G. Singh: Thank you, hon. Minister, for giving way. The Regulated Industries Commission by way of cess imposition, finances its activities that way. They do not rely upon allocations from the Ministry of Finance and the Economy.

Sen. Dr. D. Mahabir: And I thank the hon. Member Ganga Singh—[*Interruption*]

Sen. Small: He called you Minister.

Sen. Dr. D. Mahabir:—and yes. I did say that I may be interested in electoral politics. I cannot be elevated as Minister just yet. [*Laughter*] Thank you very much. By way of reference, and that is the way to go. The Environmental Management Authority by providing these certificates of environment clearance, CECs, you should be able to levy a charge and not rely on the Minister of Finance and the Economy to finance you.

The Securities and Exchange Commission, all the agencies which are regulated by the SEC should be levied a fee so that there is no charge on the Consolidated Fund—and similar for the transport authority. The transport authority will be collecting fees on licences and a range of other fees that it collects. I see no reason at all for this agency being given the authority to borrow. Is it that every agency that we have in the State would want to borrow? And I do not know how many of them are ever able to honour their obligations. We are simply going to allow one more agency the opportunity to raise funds, whereas by the levies and charges that they collect, when you look at the amount of driver's licences out there and the amount of fees collecting, they should be generating a huge surplus for the Minister of Finance and the Economy. There should never be a deficit. They should be able to collect their fees, run their operations, do what they have to do, become financially autonomous, and at the same time, provide a surplus to the Minister of Finance and the Economy to give them the authority to borrow. It is similar to what we have in a number of these parastatal agencies, everyone having an authority to borrow, no one having an ability to repay. The public debt rising, rising in a very surreptitious manner, and I tell you this country is at the stage economically where can we cannot allow [*Desk thumping*] this particular excess borrowing by agencies of the State to continue. Borrowing will have to be carefully done, and I am very sceptical about giving an authority such as this the ability to borrow.

Let us move to another clause that I have a bit of concern with, this is clause number 49. In clause 49 it says that the young driver:

> "the newly licensed driver…"—49(d)—"…within six months from the date of issue of the class 5 driver's licence, be enrolled in an approved driver education course."

Well, let us talk about that again. Here is a young person, or an old person, but he has just gotten his driver's licence, what has become of the 20 driving lessons that this individual was supposed to have? Remember in the bad old days, Madam Presiding Officer, when we drove, when we learnt on standard gear cars. I learned to drive on a

PU Datsun 120Y—and I am coming back to that type of car on another clause—manual shift, and you were given 20 lessons. At the end of those 20 lessons you could drive. You did not need any driver education course.

The reason I see this requirement of being enrolled in an approved driver education course, which appears to me to be a defensive driving course, is because the current tuition for young drivers or drivers driving for the first time, is inadequate. Because if it was adequate they would have learnt all the road conditions in that course.

Now if we are—[*Senator coughs*] Excuse me, Madam Presiding Officer—I think I need one of those Zero Diana things or the Steups—not the Steups, the Zero. If we are to ensure or require that the driver is enrolled in this course, this is another cost that is going to be—has to be paid for by the driver. Who is going to bear this? How much is it going to cost? So here is the burden to the young person. Driver's permit: a cost. Driver's licence: a cost. Bribe: a cost, and then he has in this approved driver education course another defensive driver's course. Is this fair? Is this right?

Let us, instead of insisting upon this clause 49(d) ensure that the instruction, the course of instruction is thorough. In fact, I think the Minister of Tertiary Education and Skills Training may very well want to have all of these instructors trained in your Ministry, certified driving instructors, so you know what kind of training they are going to give out there. If you do that, if they are thorough, very good driving instructors, we could be sure that after the 20 or 25 lessons the people they are putting out are going to be good people. Look, we have these people who have taken the course of instruction. Clearly the course is not very good.

Second, Madam Presiding Officer, they have passed the test. So what does passing the test mean? Just that you pass the test? It does not mean that you can drive. You may very well want to review the test itself to see whether the three point turn is really what they should do. Should they not practise reverse parking. Should they not practise normal road conditions and pass the test in this way? I think if we train the people properly, we will not need to insist upon this onerous obligation of clause 49(d). As I said, one way to get people vex and annoyed—which you would not want to do before an election—is to make the driving experience unpleasant.

Let us now, Madam Presiding Officer, move to clause 54. Under clause 54(2):

> "The Authority shall from time to time appoint Motor Vehicles Enforcement Officers to be examiners for the purpose of conducting driving tests."

But I thought that you are going to have these examiners as a cadre of people trained in motor vehicle examination. That is what the authority is there for. Why do you need to appoint these enforcement officers to be—? I think, you need to look at the examiners of people learning to drive. Certify them. Make sure they are qualified to do the job. You need to check them for integrity because many of them are not—you need to have the complaint system so that if someone is experiencing difficulty because of the behaviour of one of these officers, then there can be some type of redress. Unless we do that, Madam Presiding Officer, we will change the name of the authority, but we will not change the practice. So, we do need to have a complaint system against the examiners. Any person who feels aggrieved should be able—you see, we have it in the Police Complaints Authority, but I am not seeing it this particular piece of legislation that we have before us. I would like the Government to give serious consideration so that there can be an appeals mechanism. It is for this reason, you see, the composition of the board is going to be very important.

Let us look at clause 87, the one, of course, which is closest to me.

> "Subject to section 75, the Authority may register a vehicle as an antique vehicle where—
>
> (a) the vehicle has been tested for originality and safety and certified by the Authority as an antique vehicle;"

But that is very vague. What is an antique vehicle? Is it antique with respect to the age? Let us establish the age. Is it antique with respect to as close to its original condition as possible? Let us specify that. Is the antique vehicle something that is going to be part of the historical stock of Trinidad and Tobago? Let us declare that as antique.

As an owner of a few of them, I think we need to look at this very carefully because I do not want members of the Authority asking for an inducement or a bribe to say my vehicle is an antique, when in fact it is, and taking a bribe to say that another vehicle is antique, when it is not. An antique vehicle is not an old vehicle. An antique vehicle is not a piece of junk that could run. An antique vehicle is an Austin A50, 1955 that was on the road in September of 1955, six months before Dr. Williams made his first speech and is carrying everything original, exactly as it was in 1955 which I drive every Sunday for 10 miles. [*Desk thumping*] That is an antique vehicle.

That antique—you need therefore, to have a criteria. When it comes to the insurance now for the antique vehicle, there is a requirement that carries third party insurance. But I disagree with that. This vehicle is not something that you will see at 7.00 a.m. on the highway. Someone is not going to work with that. He is using that as his toy, his diversion, his passion, and he is engaged in other activity

because it gives a certain amount of contentment and happiness. It is a hobby and is also part of the historical stock of the country. [*Crosstalk*] Well you can get—because you do not have one, you are throwing stones, eh? [*Laughter*]

[MADAM PRESIDENT *in the Chair*]

One day, one day I am going to get—I saw a Prefect, a PF Prefect that is ideal for you. [*Crosstalk*] A PF Prefect, a 1962 Prefect. It is waiting to be restored. [*Crosstalk*] Yes. There are many of those. I think, Madam President, now—and good to see you back in the Chair. As I was commenting—another lady back in the Chair again. So, we seem to be really making use of the female resources in Trinidad and Tobago again.

So, I think it is very good that we are recognizing the antique vehicles. It is something that a lot of people can take pride in. I know a lot of people look on and say that they would like to have one themselves. It is an indication that people can keep cars for 60 years. The one I drive is 60, the other antique is 35, the other antique is 34, the Benz is 35. So, I have four of them, all of them driving, not very expensive.

4.15 p.m.

But really, should we require an insurance on each one of these antique vehicles? Should we not have, as in other jurisdictions, a fleet insurance? So, if you are the owner of six antique vehicles, you should be able to have one antique insurance. We need to work with the insurance companies because you are going to use this one day for the week, one day for the month, and usually it is simply to take to a car show or simply to give a Sunday drive. And if we are to encourage the ownership of antiques as we are now encouraging the restoration of historical buildings, and we are encouraging the preservation of sites, it is very good, I have not seen a Zephyr in a long time, a six-cylinder Zephyr. The Zephyr Zodiac, the one that growled. [*Crosstalk*] Yes, that is the one.

Again, I am coming to that Mr. Minister, because there is something there that I find is going to be injurious to my restoration of one of those, and I will raise that particular issue. But I think it is good that the Government is thinking along this direction, because antique cars offer another valuable opportunity, not only to preserve the legacy of Trinidad and Tobago, but for tourism, and to have a museum.

Sen. Karim: A wedding car for hire.

Sen. Dr. D. Mahabir: A wedding car, well, for commercial interest as well, or simply for people to get back into mechanical work. There are some people who love, as Sen. Vieira said, his father loved to tinker, you can tinker with one of those cars because there is not very much you can spoil in them.

If fact, my electrician told me—I asked him can you wire the Austin. He said yes, there is only one wire. [*Laughter*] Once you know the wire that is all. There is one wire operating all the lights. So that it is indeed one wire Senator, and once he gets the wire all the headlights and things work, wiper and tail lights, [*Laughter*] so nothing much to spoil, nothing much to fix, and it will run forever.

So, let us give consideration to encouraging people, they are not asking for any financial assistance to help restore them and so on. But, when it comes to the insurance of these cars, give consideration to a fleet insurance, antique car insurance, just as how we have these one-day insurance. When you want to buy a car you get an insurance for a day to go to take the car down for licence, we should be able to have a fleet insurance so that it covers us in case of anything, but I tell you, when you have an antique that you have spent a couple of years getting the bumper overrider in some junkyard in Princes Town, as I did, you eh risking that at all. You are not bouncing it and you do not want anyone bouncing you, so that car is the most carefully driven car.

In fact, we should be driving those cars without insurance because we are so careful, but as a concession I would say, let us have a fleet insurance to satisfy the requirement. Because an antique car is not a car, you know, an antique car is the love of your life as it were, and do you insure the love of your life, can you insure that? You cannot do that. [*Laugher*] But, let us concede to the Government and tell them, yes. If you have six of them, so one fleet insurance for six vehicles, you pay one insurance and in that way it provides an incentive to people out there to get into that line of activity, the tinkerers amongst us, those who like to preserve historical artefacts and so on, should be able to get into that.

Let us now look as clause 94(8). Clause 94(8) says that—94(7):

"A Motor Vehicles Enforcement Officer shall not issue an inspection certificate"—

if the requirements are not met, if the officer contravenes (7) he:

"commits an offence and is liable on summary conviction to a fine of five thousand dollars."

Wait, here it is someone who is driving drunk, paying a hefty fine, he takes a drink—he should not have taken the drink—and I understand he is a risk to himself and to others and he has to pay the fine, but you have an officer of the State, the officer I am complaining about, he falsifies one of these inspection certificates, what he is saying is that this vehicle is mechanically sound when it is not. This vehicle is a threat to life. I recall a number of years ago the driver of a

truck at Kay Donna intersection on the Churchill Roosevelt, just drove and killed five people in a taxi and it was said that the truck was mechanically defective. Now, wait, an officer of the State on summary conviction for this offence, saying that a truck is mechanically sound when it is defective, five thousand dollars. Give some thought, Mr. Minister. This fine does not seem to be consistent with the gravity of the offence. I think this kind of offence should carry a much greater fine than this nominal fine. [*Desk thumping*]

We should send a signal to officers of the State that you cannot be engaged in wrongdoing on our end. We will penalize the population for speeding, we would penalize them for not having their seat belts on, and we have the fines and so on. I was held up over the last two weeks twice by police officers, they pulled me aside, they wanted to check my documents and so on, midday they were checking for drunk driving, so I ask them, people actually drink at midday. They said I will be surprised. Well, I am surprised. Another day, that is last week in the Cunupia area, I was pulled aside again and interrogated. So, I understand they must do that. Sometimes they lockdown the whole country at seven o'clock, and so on, and we face the inconvenience. But, whenever officers of the State are delinquent and negligent in their duties, I would like to see the fines being major, and in my mind, your job is to certify the transport vehicles, other vehicles, they are safe, you are talking about maxi-taxis, you are talking about trucks, you are talking about tractors, you are talking about vehicles which can do harm to buildings. A car on television the other day, we saw ran off the road and went into somebody's house and killed a woman.

Let us make sure that the inspection of these vehicles is done fairly, thoroughly and so on, and if there is any falsification, let us provide the fine that would send the signal to these people that what you are doing is not tolerated. Five thousand dollars would not do. Five thousand dollars and a slap on the wrist. I would like to fine the fella $100,000 and fire the man. You do not belong in the organization. You are an individual who really is discharging the functions, not on behalf of the population, but on behalf of yourself. Let us start. If we do not do that—you see my concern, Mr. Minister, is this, we are going to change the name but we will not change the practice. We need to get the culture change, and we need to send a signal to all the people inside there, taking bribery for driver's licence and falsifying these things, major, major, major fines.

Last week we were debating the Bill on Trade Marks and there is a major fine of $250,000 for selling counterfeit goods. I think that is fair. Let the fine now be reflective of how we in the Parliament consider the offence, and the fine that I

have here is certainly more than $5,000; it certainly is more than $50,000. I am sure that the Attorney General will look at other pieces of legislation and determine what the fine should be for an officer who is really not discharging his function and is injuring the public interest.

Let us now, finally, move to clause 103, and in 103 it says:

"A person shall not assemble any motor vehicle in Trinidad and Tobago using—

(a) new foreign parts;

(b) used foreign parts; or

(c) a combination of new and used foreign parts."

Well, just as an aside, it seems as though we have ruled out the possibility that the local auto assembly industry is forever dead in this country. It would not happen. Because that assembly was an assembly of new foreign parts. All the parts came down, they were assembled out in—[*Interruption*]—yes, the CKD. I have two CKD cars, lovely cars, a Mazda 323, manufactured in 1979 and a 1983 Toyota, assembled in Las Lomas, and they were locally assembled. So, under this new law that is now illegal, Amar and Amalgamated Industries can no longer do it, but that is not the point.

The point is related specifically to that Zephyr Zodiac that I have been eyeing. You see, the Zephyr Zodiac is a shell. You cannot get one just so. People who have them really restored are not letting them go, but you can get a shell. But in order for me to get that running I need to get an engine from England, I need to get the transmission and so on, again, from other places like Australia where they had them. You go on the Net, you try to source the parts, it is possible to assemble.

So, this law is saying that I cannot, I could look at that Zephyr, I could ogle it, I could drool about it, but I cannot import the parts and assemble it here. And, I know the mischief that the law is trying to prevent, but I think when we are looking at—[*Interruption*]

Madam President: Senator.

Sen. Dr. D. Mahabir: Yes, "ah finish already"? Lord!

Madam President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. R. Balgobin*]

Question put and agreed to.

Sen. Dr. D. Mahabir: Thank you very much, Madam Vice-President. Thank you very much my distinguished colleague, Sen. Dr. Balgobin. [*Interruption*]

Hon. Senator: Madam President.

Sen. Dr. D. Mahabir: Madam President, yes, I was confused all day today, Madam President, because I had Madam Presiding Officer, I called her Madam Vice-President, and so I am getting back on track now. [*Laughter*] I did not realize I had finished 45 minutes, talk was going so well, because there is a lot to say in this piece of legislation.

I think, really, it cannot be the intent of the law to prevent someone from importing—and it is an activity that we should encourage—all these parts now available across the world and because of the search engines you are able to find everything, shipped to you, and you can put them together, and it is no different from what was done in Las Lomas by Amar at the time for Toyota and Amalgamated Industries for Neal & Massy, and Mazda. Getting parts from abroad, they are not going to be new parts, they are old parts, but they are old working parts, to restore a 1961 Zephyr, or a 1962 Prefect. In fact, the Prefect that I had in mind for good Sen. Karim is a 1962 which may need some of that. But, if I were to assemble it I would be breaking the law. [*Interruption*]

Sen. Karim: That was even before I was born.

Sen. Dr. D. Mahabir: He said he was born after 1962 so it is going to be—the 55 Austin I have was made before I was born too, so let us get that. [*Laughter*]

Madam President, the Bill is a necessary Bill. It is a large document. A tremendous amount of work has gone into this particular piece of law. However, and I am glad to hear that the Government indicated that they were willing to look at amendments and changes, because there are certain changes that we need to put in here.

I am sure in committee stage we will have a lot to say and we would have a long committee stage. But, the intent of this legislation, once you recognize that the intent of the legislation is to change the current situation from the mayhem and the chaos that you find, when as a regular person you go to a transport division such as on Wrightson Road, the difficulty we have to get legitimate pieces of documentation, like a certified copy, the problems the young people and other people face in obtaining the driver's licence, the level of corruption which exists in there to enrich some officers, the fact that the population out there is highly dissatisfied and they have no one to complain to, and the fact that everyone of us will have to interact with the Transport Authority at one time or the other, I suggest that we need to be looking at some of these clauses very carefully.

The objective is not to have a good authority or a change of name. The objective is to change the experience of the citizens of Trinidad and Tobago, and the opportunity to change starts with this piece of legislation. It starts with the legislation, it will start with the leadership given by the board of directors, given by the Minister, whoever it is.

4.30 p.m.

We need to change the culture into one of public service. We need to recognize that the industry itself is necessary for work and for leisure. And once we do that, and we know that we can really improve the public welfare on account of an efficient authority, we can improve the public welfare on account of an authority that understands public service, what it means like for someone, Madam President, to face the experience of transferring his vehicle without hassle.

It should be that with this law and a Minister giving direction to the board, someone should just be able to make an appointment. I am selling my car, could I make an appointment with the prospective buyer for next week? They say, okay, come three weeks from today, nine o'clock in the morning, these are the documents. We should be able to do that as opposed to the old archaic system of lining up and at 2.00 in the morning trying to be first in line and then having to wait until 12.00/1.00 before you go on the pit. Let us change to administration internally.

It is not going to be in the interest in the public servant to do that. The more he can frustrate us the more power he has for us to pay. Let us now use this authority as an opportunity to get the thing right so that the public out there who have to interface with the agency will know that they are dealing with a professional agency and not just a name.

There was talk in the past of changing the Ministry of Finance to the Revenue Authority. I do not hold too much optimism that much will change. The reason is, it is only going to change when you recognise that you have serious flaws in the system. Once you recognize them and you put people at the top who can be looking out for them and you place penalties for people who work for themselves and not work for the population, and you penalize these public servant, errant public servants who have gotten accustom and I see them, I am not talking out thin air.

Thank God for the Joint Select Committees in Parliament. We see the public servants coming in with a lot of sloppy behaviour, behaviour that is injurious to the public interest. If that is at the centre of the focus this particular Bill will make a difference, if it is not, we will just be having a large amount of paper with absolutely no change in the experience of the population.

Madam President, I thank you kindly for this opportunity. [*Desk thumping*]

Madam President: Hon. Senators, I propose to suspend the sitting of the Senate for the tea break.

ARRANGEMENT OF BUSINESS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. Madam President, at this time, in accordance with Standing Order 36(3), I beg to move that the debate on this Bill be adjourned and to resume debate on the Precursor Chemicals (No. 2) Bill, 2014 after the tea break.

Question put and agreed to.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

Madam President: The debate on the Motor Vehicles and Road Traffic Bill, 2014 is adjourned. At this time I propose that we suspend the sitting for the tea break. I also wish to announce that the Precursor Chemical (No. 2) Bill, 2014 will continue after the tea break. The Senate is now suspended for half an hour. We will return at 5.04 p.m.

4.34 p.m.: *Sitting suspended.*

5.04 p.m.: *Sitting resumed.*

PRECURSOR CHEMICALS (NO. 2) BILL, 2014
[Fourth Day]

Order read for resuming adjourned debate on question [December 09, 2014]:

That the Bill be now read a second time.

Question again proposed.

Madam President: On the last occasion the Attorney General was responding, he spoke for 12 minutes and has 33 minutes of original speaking time. The Attorney General. [*Desk thumping*]

Sen. The Hon. G. Nicholas: Thank you, Madam President. Madam President, as previously stated, the Government is seeking to effectively control the importation of legal chemicals that are subsequently diverted to the preparation of illegal drugs. These chemicals known as precursors have legitimate commercial uses as they are used legally in various industrial processes and consumer products, such as medicines, fragrances and flavourings, as we have already discussed.

Madam President, the Government understands that it is paramount, that we recognize and protect the legal trade in these substances, while at the same time discouraging their diversion for illicit purposes. We need to strike a balance between avoiding the restriction of legitimate trade and actions taken to prevent the illicit manufacture of drugs. For this reason, Madam President, this Bill seeks to establish a precursor chemicals unit within the Strategic Services Agencies which will monitor and control precursor chemicals used or capable of being used in any type of illicit transaction involving narcotic drugs, psychotropic substances or other substances having a similar effect.

This Bill also confirms the Government's commitment to international agreements on the illicit drug trade, such as the 1988 United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic substances and the Anti-Drug Strategy in the Hemisphere. The UNDP project document effective control and monitoring of precursor chemicals in Trinidad and Tobago, recommended the introduction of legislation, the creation of a precursor unit and cooperation between the various Ministries, all of which are now captured in this Bill.

Since the first evaluation round, the OAS governmental group, it was recognized that critical legislation was needed for precursor chemicals. Yet, Madam President, the former PNM Government dragged their feet on this process. We have had many recommendations for almost a decade. The OAS progress report in drug control published in June 2004 suggested that we reiterate the recommendation from the first evaluation round of 1999 to 2000, to ensure that national laws on control chemical substances are consistent with the provisions of the United Nations Conventions against Illicit Trafficking in Narcotics and Psychotropic Chemical Substances of Vienna, 1988.

5.10 p.m.

Again, Madam President, the Government of the day did nothing. A further OAS Report in 2007 to 2009 stated the following:

> "Trinidad and Tobago reports that a specialist team has been established to review draft legislation, the Precursor Chemicals Bill 2001, in order to ensure that it addresses the concerns of the United Nations Convention against Illicit Trafficking in Narcotics and Psychotropic Chemical Substances of Vienna, 1988 and the Anti-Drug Strategy in the Hemisphere. However, Trinidad and Tobago states that it is unlikely that the draft legislation would be considered by the Parliament before September2004. A Precursor Chemicals Policy has been"—established and—"accepted by the Cabinet, according to the country, but it does not elaborate on the content of this policy.

The country further reports that after the enactment of the proposed legislation, it plans to establish a Precursor Chemical Unit, which will accommodate and incorporate all relevant bodies and competent authorities responsible for all aspects pertaining to the control of precursor chemicals.

CICAD expresses concern on the delay in implementing this recommendation and urges its completion as soon as possible after it is approved by the Parliament, taking into account that the recommendation is reiterated from the First Evaluation Round 1999 - 2000."

Madam President, given the abject failure of the previous administration, we have taken this on board and fulfilled our national and international obligations. A "precursor chemical" is defined in clause 4 of the Bill as:

"…any substance which

(a) can be used in any of the chemical processes involved in the manufacture of narcotic drugs, psychotropic substances or other drugs or substances having a similar effect; and

(b) (any substance which) incorporates its molecular structure into the final product making it essential for the chemical processes"—involved in the manufacture of narcotic drugs, psychotropic substances or other drugs or substances having a similar effect.

Madam President, it will be the responsibility of the unit to monitor and ensure that any precursor chemicals are not used in any illicit way. The Bill will further provide for the Unit to maintain a register of persons and entities engaged in any prescribed activity and will allow for this information to be shared with relevant Ministries, Government Departments and statutory bodies as specified in Schedule 3.

The Head of the Unit will also have the power to request the inspection of any consignment that he has reasonable grounds to believe contains a specified chemical substance that is being imported in contravention of, or for the purpose of contravening the Act or any other written law.

The Bill will provide for a Competent Authority who will be the Chief Medical Officer. The role of the Competent Authority will be to assist the Unit in the execution of its duties, to notify the Unit of suspicious activity and to be the liaison between the Unit and the International Narcotic Control Board and competent authorities outside of Trinidad and Tobago.

In its present form, the Bill requires a three-fifths majority pursuant to section 13 of the Constitution, as it infringes sections 4 and 5 of the Constitution. This is evident in clause 15(2) and (3) of the Bill where a police officer or a customs officer is given the power to enter and search any place and seize any specified chemical substance or any specified chemical equipment without warrant. However, Madam President, there is a proposed amendment to deal with this issue and once it is accepted, I believe that the three-fifths majority may not be required. The Bill will provide for any specified chemical substance or any specified chemical equivalent seized to be submitted to an analyst for analysis and to be kept and stored in accordance with the Bill.

Clause 20 of the Bill will allow the court to make an order for the forfeiture of property found in the possession or under the control of a person convicted of an offence under the Act.

Clause 22 of the Bill will provide for the offence of facilitating of diversion. The facilitation of diversion is currently defined in the Bill as engaging in any act in relation to a specified chemical substance, knowing or having reasonable grounds to suspect that the specified chemical substance is to be used in the manufacture of narcotic drugs, psychotropic substances or other substances having a similar effect, or knowingly organizing, managing or financing any act in relation to a specified chemical substance, knowing or having reasonable grounds to suspect that the specified chemical substance is to be used in the manufacture of narcotic drugs, psychotropic substances or other substances having a similar effect.

The penalty for the facilitation of diversion is:

"on summary conviction…a fine of one million dollars and…imprisonment for three years; or

"on conviction on indictment…a fine of three million dollars and…imprisonment for five years."

Finally, Schedule 4 of the Bill allows for consequential amendments to be made to the Dangerous Drugs Act, the Food and Drugs Act and the Pesticides and Toxic Chemicals Act to give effect to the Bill.

Madam President, I have taken note of all of the contributions by Senators and propose the following amendments that will hopefully deal with all of the major concerns expressed. And if we are to turn to the Bill, Part 1 of the Bill at clause 4, there are some definitions that are not actually used in the body of the Bill and I

therefore propose to have those deleted. "Customs transit" is not used, "licensee" is not used, "registered premises" is not used and "waters" is not used, and as such, those four definitions can be deleted.

If I am to go to clause 9 of the Bill, in the chapeau, I propose that we insert after the words "the Unit" the words "within 48 hours of the receipt of the request for the information". Therefore that prompts a greater efficiency in the delivery of information between ministries and the Unit and I think that is something that was of concern to Members.

If we are to go to clause 9(g), I propose that we insert after the word "the", the words "chemistry" so that clause 9(g) reads:

"the Chemistry/Food and Drugs Division;…"

I propose that we go to clause 10 and delete subclause (1) and substitute the following subclause:

"The Minister may, by instrument in writing, designate suitably qualified persons and analysts for the purposes of this Act and shall furnish every such person with a certificate of his designation."

I propose that we go to clause 14 and in subclause (1), insert after the word "imported", the words "or exported".

I propose that we go to clause 15 and in subclause (2), delete after the words "by day or night", the words "without a warrant" and substitute the words "on the authority of a warrant issued on an ex parte application by a Magistrate". This particular clause came in for a lot of comment and it was felt that there was absolutely no need to infringe on the rights of persons by having officers enter into persons' homes without a warrant, and I believe this was one of the main clauses that would have actually triggered the special majority requirement as well.

If we go to clause 18 of the Bill, in subclause (2), I propose that we insert after the words "and analysis", the words "within one month of the submission of the sample". Again, what this does is put a time line on the Unit to actually conduct the analysis. Given the sensitivity of the whole issue and the commercial nature involved, we thought that it would be unfair for persons to have to wait any sort of indefinite period for the analysis to be done. And B, we propose that we insert after subclause (2), the following new subclause (3), which states:

"Where the results of the analysis do not show specified chemical substances or specified chemical equipment, the person from whom the sample or thing was seized shall not have committed an offence, and the thing seized under section 15(3) shall be returned to the person within one month of the submission of the report to the officer."

And, of course, we would have to renumber subclauses (3) and (4) as subclauses (4) and (5).

We propose that we delete subclause (2) in clause 19 and this, of course, we will place in a new clause 20(10) which I will deal with shortly.

As far as clause 20 is concerned, clause 20, in the chapeau of subclause (3), we propose to insert before the words "specified chemical equipment", the words, "specified chemical substance or". And in subclauses (3)(a), (3)(b), (4), (5), (6) and (7), insert before the words "specified chemical equipment", the words, "specified chemical substance or" wherever they occur.

It is also proposed that we insert after subclause (9), as I just explained, a new subclause (10) which, in fact, is the old 19(2). And that just makes for easier reading.

In clause 21(1), in the chapeau, we insert after the words "person who", the word "unlawfully". Again, this was another source of concern that was identified, especially by persons like Sen. Faris Al-Rawi that we specify that it is an unlawful act, as opposed to just persons acting or using the equipment.

In clause 21(1) again, in paragraph (b), we delete after the words "three million dollars", "the word, "or" and substitute the word "and".

In 22 (1), in paragraph (a), we insert before the words "to be used in the" the word, "unlawful", again dealing with the concerns by most of the Independent Bench as well with these matters.

In paragraph 23(1)(b), we delete after the words "imprisonment for" the words "one year" and substitute the words "two years". So that the conviction and indictment will now read:

> "A fine of two hundred and fifty thousand dollars and to imprisonment for two years."

In clause 24(1) in the chapeau, we insert after the words "person who" the word "knowingly", again making it clear that it is not just any person and again addressing major concerns identified by Members opposite.

In that same 24(1) paragraph (c) we delete the word "knowingly" in paragraph (c) to again keep consistency throughout that clause.

In clause 26—it is proposed that in item 2 we delete after the words "trade and use of", the words "precursor chemicals" and substitute the words "specified chemical substances". As well as in item 3, we delete after the words "supply, etc., of" the words "precursor chemicals" and substitute the words "specified chemical substances".

5.25 p.m.

And finally, in Schedule 4, we insert after item 3 the following new item that reads:

4. The Customs Act is amended in section 279 as follows:

   (a) in paragraph (b) by deleting after the words "enforcement of standards" the word "and";

   (b) in paragraph (c) by deleting the full stop after the words "business facilitation" and substituting the word "and";

   (c) by inserting after paragraph (c) the following new paragraph:

"(d) the Director of Strategic Services Agency".

I hope, Madam President, that these amendments would satisfy all the concerns that Members had with regard to this Bill and that it now, in their minds, be what they would consider to be good law that can properly service the people of Trinidad and Tobago, and for these reasons, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Sen. Al-Rawi: Madam Chairman, if I may just through you, enquire of the hon. Attorney General what the anticipated proclamation time frame of this Bill is and whether there are any matters required to be considered or put into place prior to proclamation?

Sen. Nicholas: I am advised that we would want to advertise the coming into force of this legislation so that people can get their house in order, and we propose a time frame of between three and six months.

Sen. Al-Rawi: Thank you, hon. Attorney General. If I may, the SSA Act, which is in existence already, has as one of its functions, specifically, section 6 of that Act and a unit of this type. In fact, it is supposed to be that a unit of this type exists already, but as I understood it there were some problems with the sharing of information and data sets,

and hence there was some advocacy that the unit needed to have a little assistance through this type of legislation so that people could stop subverting the real intention of getting the cooperation—[*Interruption*]

Sen. Nicholas: They could do it in harmonization.

Sen. Al-Rawi: Thank you for a much better word than the one I just used. That being the case, one would assume that—is it that there has to be a re-advertising for these posts, or is there a degree of transfer? Because something that concerns me in this construction that we are putting together is that I have not seen anywhere in this legislation anything to repeal any part of the SSA Act, in particular, or the Dangerous Drugs Act, or the Pesticides and Toxic Chemicals Act.

I hear across the floor the hon. Leader of Government Business saying that they are separate issues, but my view and perhaps you will be able to assist us, is that there are some things that would have to be amended consequentially as a result of this Act and I am not seeing it here, for instance, the precursor chemicals definition other things which we are leaving behind in creating this new entity. Are these some of the things that have to be factored in our run up to proclamation?

Sen. Nicholas: Schedule 4 actually deals with a number of the consequential amendments, and I am also informed that the Ministry of Health has a review coming up that will deal with any changes that are required.

Sen. Al-Rawi: Thank you, hon. Attorney General. Perhaps then the rest of the questions that I have will be more appropriate when we do the Schedules.

Sen. Nicholas: Sure.

Sen. Al-Rawi: Thank you.

Sen. Nicholas: In the main there will be transfers unless where new posts are required.

Sen. Al-Rawi: Thank you.

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, may I through you, to the hon. Attorney General, ask as to the fate of the definition of "analyst" at page 2 of the Bill:

"'analyst' means an officer designated under section 10(1);"

And I thank the hon. Attorney General for making the proposed amendment to 10(1) when we get there. But we have also have the term "analyst"—[*Interruption*]

Madam Chairman: Senator?

Sen. Al-Rawi: Yes, Ma'am.

Madam Chairman: We are dealing with clause 3.

Sen. Al-Rawi: Oh, I am so sorry—which is the inconsistency clause. I apologize, Madam Chairman. I had skipped to 4, I apologize.

Sen. Nicholas: I suspect, Madam Chair, that in light of the impending amendment, clause 3 will no longer be required.

Sen. Al-Rawi: May I respectfully? I did hear the hon. Attorney General volunteer a point of view, which is certainly a point of view which can be sustained in one line of reasoning, that is, that we do not necessarily need to the disturb the constitutional arrangement. However, I did also hear the hon. Attorney General speak to the intrusion when we came to the seizure of property and I am sort of concerned.

I would like to hear, hon. Attorney General, on that particular point, whether you consider that the need for the three-fifths majority can be put aside because of the due process considerations in the introduction of a warrant via the magistrate for entry. I am sort of concerned insofar as three rights are concerned, one the right to property and the seizure which can happen there—[*Interruption*]

Sen. Nicholas: Okay. My sample question to you, Senator, is whether you believe that having the due process under the Constitution in place, whether you would still be infringing sections 4 and 5 of the Constitution?

Sen. Al-Rawi: It is very interesting of you to ask me that question, hon. Attorney General. There are two schools of thought. One, that due process would satisfy the proportionality of the Bill, and therefore, obviate the need for the section 13 exception. However, I am sort of worried because of the intrusion onto

three rights later on which is self-incrimination even though excepted property and treatment. I am concerned that we perhaps still need the three-fifths majority exception. I am, of course, open. I mean, I am just expressing a concern. I have not looked at it too far because I was quite comfortable with the section 13 application. Perhaps other Senators have point of view on it?

Sen. Nicholas: I would be happy to hear if there are other views.

Sen. Vieira: I have not considered it very deeply, but I tend to be conservative where these points are concerned, you know, anything that touches on the fundamental human rights or where personal property is going to be affected, but I am not holding—[*Interruption*]

Sen. Nicholas: I certainly believe that it is not required, but I am quite prepared to proceed on the abundance of caution doctrine.

Sen. Al-Rawi: I confess, hon. Attorney General, that because it was there that I did not think beyond it. My gut instinct tells me that it is perhaps required. There may be a rationale for being comforted that is ought not to be there, but I will be comforted the same way you would to leave it as it is.

Sen. Nicholas: No problem.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 4.

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

Sen. Al-Rawi: Madam Chairman, through you to the hon. Attorney General. Hon. Attorney General, I was wondering about the use of the term "analyst". This Bill intersects with the pesticides and—I was saying, first of all thank you for the harmonization of the term "analyst" in accordance with other pieces of law, but I was wondering insofar as this term is also used in the Dangerous Drugs Act, the Pesticides and Toxic Chemicals Act and the Food and Drugs Act, whether we were satisfied that there was enough harmony in this term. I am not sure if your support staff can assist us there, or perhaps you, of course, hon. Attorney General.

Sen. Nicholas: I think the short answer is yes.

Sen. Al-Rawi: Yeah? So the amendment that we have made factored into 10(1) ought to take care of the harmony, correct?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you very much. And then may I also enquire, relative to the competent authority being the Chief Medical Officer, I was wondering, hon. Attorney General—and this comes up a little bit later on—as to the capacity of the CMO. The CMO features in many pieces of legislation as an ex officio member of a number of boards, a number of entities and is called upon to do numerous things. Under this Bill—clause 6 is it of the Bill?—the CMO is called upon to do certain things which I am sort of concerned that the CMO cannot do, practically speaking.

5.40 p.m.

Sen. Nicholas: I think it is 12.

Sen. Al-Rawi: Yes, indeed it is 12. So, I was wondering, did the Government think it appropriate to have the competent authority such person as may be designated by order of the Minister as opposed to just the CMO? I am really thinking about the capacity of the CMO and the suitability of the officer in terms of training, capacity, et cetera. If we look to the SSA Act and we look to the Dangerous Drugs Act from which we are effectively carving out this new unit, the CMO really did not have the kind of functions that we are now giving the CMO. What we had was the head of SSA doing and being responsible for all of these functions. And then there was a subset of working through the organization there as it existed in the SSA Act which incorporated the use of the Dangerous Drugs Act.

In creating this unit, as we are doing, we are relying upon two essential creatures. One is the head of the unit which is such person as may be suitably qualified and appointed by the head of the SSA himself and then the second one is the CMO. But I am very concerned about the physical capacity of the CMO particularly when the competent authority, as we contemplate in the Bill, in other jurisdictions, is not necessarily your CMO.

Now, I, of course, accept that there would be delegation of authority, et cetera, but I have seen in some bits of legislation where we actually say the CMO or such person as may be designated by him. What about attendance requirements? Is he ex-officio and therefore must attend to perform the functions under section 12 when it comes up? So the suitability of this person, the CMO, this office, being the competent authority, and I wondered what the logic behind that was. Are we wedded to it?

Sen. Nicholas: Well, one of the schools of thought would have been that the Ministry of Health has responsibility for the labs and the licensing. And as you quite rightly said, there can be that possibility of designating authority by the CMO. So, essentially, I am further informed that most of the jurisdictions that we have actually looked at used the Ministry of Health as the competent authority, and also the CMO having all the inspectorates under him or under the office, that the central reporting designated person would be the central authority.

Sen. Al-Rawi: Thank you, hon. Attorney General. I am just concerned in light of the definition clause biting into the functions at clause 12 of the Bill, whether we are, to use this term, chaining the CMO to a function which he cannot delegate. So I have not seen a delegation authority inside of the Bill.

Sen. Nicholas: I think the Ministry of Health believes that that is the most suitable office at this time.

Sen. Al-Rawi: So long as the assurance is that—

Sen. Nicholas: And under the international narcotics board, he is listed as the competent authority as well.

Sen. Al-Rawi: So, there will never be a requirement where the CMO has to physically attend to deal with these things because we are assured that the delegation factor can operate in this circumstance notwithstanding the fact that we have not specified it.

If I may use the example of the Bill which we have just debated—just as an example—we were very careful to ensure that we had the delegation power, such person as maybe co-opted to arrange these affairs. In the Regional Health Authorities legislation, when we amended that Act of Parliament, we were very careful and the Minister of Health was at pains to tell us that requiring the CMO to do these functions was an impossibility and very often, it could not be done. So what I am being given now is a different story from what the Minister of Health had told us on that Bill.

Sen. Nicholas: Let me just say this, your proposal is that we include "or any other person designated by the CMO". Is that your proposal?

Sen. Al-Rawi: If the assurance is that this thing can work as stated, then I am fine with it. Right? I am just teasing out the idea to make sure that we do not bound by something because I was concerned by what the Minister of Health told us in the Regional Health Authorities Act amendments where we did the registration of nurses. So, so long as the assurance is that that function is not one which would be stymied by the physical attendance of the CMO or his inability to delegate, I think that that assurance could work.

Sen. Nicholas: Okay. You are so assured.

Sen. Vieira: I just wanted to go back to the definition of "analyst" because I listened to Sen. Al-Rawi and I actually went and checked back with the Dangerous Drugs Act and the Pesticides and Toxic Chemicals Act. The definitions are all coincidental; they pretty much say the same thing. Except that in this one, it might be a little more restrictive. In the Dangerous Drugs Act, section 22(2):

"The Minister may designate duly qualified analysts for the purposes of this Act."

And in the Pesticides and Toxic Chemicals, section 6(1):

"The Minister may designate public officers to be—

(a) analysts and inspectors according to their qualification;

…for the purposes of this Act…"

This one, the analyst can only come from a qualified office of the unit, so it is a little more restrictive. I am wondering whether it might not be easier for him to draw from other sources. Just an observation.

Sen. Nicholas: The proposed amendment deals with that.

Sen. Al-Rawi: Yeah, Sen. Vieira, we had deleted "officer of the unit" in the proposed amendments.

Sen. Nicholas: Let me just tell you how it will read:

The Minister may, by instruments in writing, designate a suitable qualified person as an analyst.

Sen. Vieira: Well, that is excellent and there is harmony with the other legislation.

Sen. Al-Rawi: Yeah.

Sen. Nicholas: Indeed. Thank you, Senator.

Madam Chairman: AG, you have other amendments to clause 4?

Sen. Nicholas: Yes, well, the deletion of "customs transit", the deletion of "licencee", the deletion of "registered premises" and the deletion of "waters'.

Sen. Al-Rawi: Madam Chairman, I have noted those deletions and I thank the hon. Minister for making them. May I enquire under the definition of "Minister", I note that this legislation keeps with the use of the "Minister" as the Minister of National Security as the SSA Act itself had. What I did notice, however, was that the Food and Drugs Act and the Pesticides and Toxic Chemicals Act, both used

the Minister of Health, and I am sort of concerned, are we attaching the right Minister particularly in view of the incorporation of the CMO into this? Because it is the CMO who falls under the Ministry of Health that has to do these responsibilities.

Sen. Nicholas: Essentially, we are talking about the Minister with responsibility for the SSA who has overall responsibility, so yes.

Sen. Al-Rawi: Okay, so the intention is to keep it in line with the—because this is a creature of the SSA Act itself?

Sen. Nicholas: Correct.

Sen. Al-Rawi: And hon. Attorney General, was it not possible to put these amendments into the SSA Act itself?

Sen. Nicholas: Except that the SSA Act is not before us.

Sen. Al-Rawi: I appreciate that but I mean in creating a different unit, a different piece of law, what we are essentially doing is we are creating a subset—I notice that the—again, it will come up when we look at the Schedules but I could flag it now. The consequential amendments to the SSA Act, I do not think that they go as far as they ought to go in terms of the reconstruction of the functions of the SSA which deals with precursor chemicals; the functions of the Dangerous Drugs Act which deals with precursor chemicals; and the functions now defined under the Act. So I am just flagging that.

Sen. Nicholas: No problem.

Sen. Al-Rawi: That is why I have asked that question. I do have another point for you to consider—two points, hon. Attorney General—three. First one is under the "narcotic drug". The definition here:

> "'narcotic drug' means a dangerous drug as defined in section 3 of Dangerous Drug Act;"

Just to point out that section 3 defines "dangerous drugs" in the plural and not "dangerous drug" as a term of art. So just pointing out that whether you wanted it to be plural or singular in the reference there. It was not a capitalized or defined term so I am just making sure we did not read it wrong. Right?

The second one was the:

> "'National Drug Control System' means an electronic system administered by the Agency…"

I wondered if you were not excluding out the mandatory paper system which must also run concurrently with that. So in specifying that the system is only an electronic system, are you obviating the provisions which require a paper management system? For instance, as the Income Tax Act or the Dangerous Drugs Act or the Data Protection Act will require.

Sen. Nicholas: Interesting point. It is an international system and it is specific to that system. It does not come into conflict with the use of paper filing that would exist in the Ministry of Health, for example.

Sen. Al-Rawi: Hon. Attorney General, I was looking at the positive obligations upon the management by the data management so I understand the sharing of information sets—the data sets that are contemplated and therefore the technologically specific sense that we have used the electronic system in. What I am concerned about, however, is putting the positive obligation upon the manager of the information when it is not in an electronic data-set environment.

Sen. Dr. Balgobin: May I just intervene here? Hon. Attorney General, it occurs to me that he has a sound point and the mischief might easily be—or I think we could create a problem here. It is very easy, instead, for us to say the "National Drug Control System" means a system.

Sen. Al-Rawi: Yeah, or the system.

Sen. Dr. Balgobin: Or means the system including an electronic system or whatever if you wish.

Sen. Al-Rawi: You do not need to specify.

Sen. Nicholas: I think what needs to be clarified is that this is not just a normal operating system. This is a system that is specific to the international sharing obligations. So that there are other systems operating but this specific system which is known as the "National Drug Control System" internationally is set up for specifically that purpose, and that is why it is referred to in that way.

Sen. Dr. Balgobin: So does your putting electronic in here, for example, preclude source data that is written on paper?

Sen. Nicholas: No, it does not. It just means that this system—

Sen. Dr. Balgobin: The final repository is electronic?

Sen. Nicholas: This particular system is used only in—it is used to communicate information electronically. There are other systems in place for the storing of data that may be paper-based.

Sen. Dr. Balgobin: So, for example, somebody imports a chemical that we consider to be a precursor chemical and I am the guy who is looking at it when the container is opened, it has not reached as an entry yet into the National Drug Control System.

Sen. Nicholas: That is correct.

Sen. Dr. Balgobin: So, I am allowed to put this down on paper?

Sen. Nicholas: Absolutely.

Sen. Dr. Balgobin: And this definition does not mean that that paper has no merit, value, validity?

Sen. Nicholas: It does not. It is only after we gather all the information and then we are sharing it that we use this particular system for sharing.

5.55 p.m.

Sen. Al-Rawi: AG, one of the thoughts in my mind, if I could just share it, being technologically specific runs the risk of having to come back to Parliament at times, right? So 1960s laws did not contemplate electronic management of paper, et cetera. The beneficial value versus prejudicial value in maintaining the use of the words "an electronic" in there, if one were to say "National Drug Control System" means the system administered by the agency for information-sharing, that would capture any type of system we put in in the future and it could survive for the next 60 years because it could be paper, it could be electronic, it could be magnetic.

Sen. Dr. Balgobin: Just keep in mind that when we did not specify electronic systems in the past, we now have to pass specific legislation to ensure that electronic systems and electronic transactions can take place because the law had not contemplated these things before. So we are just trying to bulletproof you there, Attorney General, so that your law can withstand the test of time.

Sen. Vieira: I tend to agree with both Senators. Let me give an example. In the Copyright Act, they had communication to the public and at the time it seemed like this was very wide and encompassing where you talked about by wire or wireless means, but now you realize that you could communicate in other ways and you have to go and re-class this. So I tend to agree. Electronic does not add anything. In fact, it could be an impediment as things evolve.

Sen. Nicholas: Senators, I actually agree with what has been put forward and I think I have been able to convince the technocrats that this can work. And, therefore, the definition "National Drug Control System" means the system administered by the agency for information-sharing.

Sen. Al-Rawi: Thank you, hon. AG. May I ask, in relation to the defined term "precursor chemical"—I am going to jump just by way of reference to Schedule 4, even though we are not there but it impacts on this clause—Schedule 4, which is at page 29 of the Bill, has consequential amendments to the Dangerous Drugs Act, the Food and Drugs Act, the Pesticides and Toxic Chemicals Act. That is it.

The SSA Act specifically has a definition for "precursor chemical" and it refers to the Dangerous Drugs Act. So the SSA Act says that it shall have it the same meaning as the Dangerous Drugs Act. The Dangerous Drugs Act in Schedule 4, they changed the definition of "advertisement", "drug", alphabetical sequence "Minister", "official compendium". But we do not amend that particular definition.

Sen. Nicholas: Yes.

Sen. Al-Rawi: So when we get down to Schedule 4 there ought to be a consequential amendment so we do not have—

Sen. Nicholas: Yes.

Sen. Al-Rawi: Even though we could rely upon statutory construction of a later piece of legislation amending a former one, it will still be a little bit untidy.

Sen. Nicholas: We agree.

Sen. Al-Rawi: Okay, great. Thank you. Then, just to point out, pre-export notification system. This is on page 5. So the next definition under precursor chemicals, the next defined term is "pre-export notification system" means a system, et cetera, paragraph A under the chapeau there. The capital "C", capital "A" in the exporting country. I think that should be a common "c" common "a", because the competent authority with those two terms means the CMO of that area if we use the defined terms here.

So in "b", it is fine to say the unit in Trinidad and Tobago to the capital "C", capital "A" competent authority. But in "A", the competent authority with capitalized terms there, in the exporting country to the unit is inappropriate. Later down we actually take note of that and we use it in the lower case terms. So, I just wanted to point that out to you. [*Crosstalk*] Correct.

And if you look to clause 12(f), you will see that we use it in common terms.

Sen. Nicholas: We would take that amendment.

Sen. Al-Rawi: Okay, so that, perhaps, ought to be considered there.

At "prescribed activity" on page 5, at the bottom of the page:

"'prescribed activity' means—

the manufacturing, wholesale, distribution, marketing, importation,…"—et cetera.

We get down to the end, of a specified chemical substance. Is that a scheduled item hon. Minister? Yes it is, sorry. I have answered my own question. It is on the next page. Okay, sorry about that. I debated this Bill in November of last year so I am just trying to remember some of the positions.

Sen. Dr. Balgobin: Just a quick question here under the "prescribed activity". Are you sure you did not just mean to say purchase, storage, sale of?

Sen. Nicholas: These are specific to the Pesticides and the Toxic Chemicals Act and, therefore, consistent with the licencing agreement.

Sen. Al-Rawi: If we could look on page 6 to "specified chemical equipment".

"'specified chemical equipment' means any article, material, device or apparatus designed, used or specifically altered for the illicit manufacture or preparation of—" (a) and (b).

Is illicit meant to be illegal? What is meant by "illicit manufacture", page 6, "specified chemical equipment"? I am not sure that illicit means something in law the way I think it means to be intended here.

Sen. Nicholas: It, apparently, is meant to be there to define the difference between making the same product, for instance a tablet, as opposed to making a tablet that is an Ecstasy tablet. The illicit manufacture would be the Ecstasy tablet. That is the purpose of the use of it in this way.

Sen. Dr. Balgobin: The ecstasy tablet is what is illicit?

Sen. Al-Rawi: Correct.

Sen. Nicholas: Well yes.

Sen. Dr. Balgobin: I have a machine and I produce two sets of tablets. In the morning I make Panadol and in the night I make Ecstasy. So what is illegal there, the act of manufacturing or is it what I have produced?

Sen. Nicholas: Once you use the equipment to make the Ecstasy and the equipment now becomes for an illegal purpose.

Sen. Dr. Balgobin: So you are making the production process—[*Interruption*]

Sen. Al-Rawi: So that you could seize the equipment.

Sen. Nicholas: Yes.

Sen. Al-Rawi: I understand that but the question is—[*Interruption*]

Sen. Dr. Balgobin: So the equipment has committed a crime.

Sen. Nicholas: That is right.

Sen. Al-Rawi: But the question for me is: do we want to depart from the well-established terms "unlawful" or "illegal"? Why illicit?

Sen. Nicholas: We can concede to unlawful.

Sen. Al-Rawi: There may be a reason for it. I am just asking.

Sen. Nicholas: Following the Vienna Convention, it is illicit.

Sen. Al-Rawi: I have no problem if that is the case.

Sen. Dr. Balgobin: We could go with illicit.

Sen. Al-Rawi: Okay, I was just interested to know why. Thank you.

Sen. Dr. Balgobin: Faris, you all right there?

Sen. Al-Rawi: That is it for me.

Sen. Dr. Balgobin: I have a question on 7, on "Unit". Attorney General, just refresh my memory again and, perhaps, the hon. Minister of National Security may wish to clarify, why are we putting this in the SSA again?

Sen. Al-Rawi: Why are we removing it? Sorry.

Sen. Dr. Balgobin: No, you could answer Faris if you know.

Sen. Al-Rawi: No, I had asked earlier before you came in Sen. Balgobin. I understand and the hon. AG who did not pilot this Bill but who is wrapping up the Bill, explained—and correct me if I am wrong AG—that it was because of a reluctance or a lack of functionality experienced in the SSA, particularly as it related to the sharing of information sets and functionality, that somebody recommended that a unit be legislated to do certain things which were not specified in the Act. Why was that the case? I am not sure because I think that the SSA Act allows all of this to be done as it is.

Sen. Dr. Balgobin: But whatever the SSA Act says, the practical realization of it is that it functions more as an intelligence organization, not so? Why is this there? I mean this involves administration and administrative work and process

and procedure and people from the SSA become invisible to importers and manufacturers using these ingredients, and so on. Are we sure that is what our intention was here? Why not the police?

Sen. Al-Rawi: Well I understand that the SSA Act itself, in section 6 of the original SSA Act, that was the entity into which the Convention was parked and given the obligation to manage precursor chemicals, taking it away from the Dangerous Drugs Act where it was originally parked. So architecturally it was in the Dangerous Drugs Act first. Then the SSA Act took it over and now they seem to want to create a unit in that entity. But I have not gotten a reason why yet.

Sen. Nicholas: Section 6(1)(a) of the Strategic Services Agency legislation outlines that the main functions of the agency are to act as an office for centralizing information that could facilitate the detection and prevention of illicit traffic in narcotic drugs, psychotropic substances and precursor chemicals.

Sen. Al-Rawi: Yes, that was the UN Convention parking, yes.

Sen. Dr. Balgobin: But notwithstanding what that says, are you sure that you want to give the SSA this role?

Sen. Al-Rawi: Well it has it already, Senator.

Sen. Dr. Balgobin: No, no, no. It may have the—[*Interruption*]

Sen. Al-Rawi: You mean the visibility of it?

Sen. Dr. Balgobin: Yes, the unit does not exist yet.

Sen. Al-Rawi: No, it does.

Sen. Nicholas: Yes.

Sen. Al-Rawi: It exists already. The reason for this legislation, as I gleaned so far, is that it does not seem to be functioning the way it ought to.

Sen. Dr. Balgobin: Well, I need somebody to tell me that.

Sen. Al-Rawi: Well, yes that is what I am trying to get the AG to tell me.

Sen. Dr. Balgobin: I need somebody to tell me why we are putting this there.

Sen. Nicholas: The clarity from the Ministry of National Security is that the drugs in the past would come to the Ministry of Health, but in terms of investigation and analysing in this way, that function comes under the SSA, and this legislation actually empowers the functionality of the unit to carry out the investigative functions that ordinarily it would not have.

Sen. Al-Rawi: All right. I think the—[*Interruption*]

Sen. Nicholas: And to share the idea.

Sen. Al-Rawi: Hon. AG, the only thing in this Bill that is novel is the specific dictation that you are to share information sets for the following people. That is the only thing that seems to be—[*Interruption*]

Sen. Nicholas: And the criminalization.

Sen. Al-Rawi: Right.

Sen. Nicholas: Which is extremely important. In fact that is the most important thing in the legislation.

Sen. Al-Rawi: I have a question on that as we get a little bit later on. But I am good with my questions for now, subject to anyone else.

6.10 p.m.

Sen. Dr. Balgobin: I am still not past the place where we are creating a unit in a place to give another bunch of people the right to come inside my house. So, I am just trying to understand why, and I hear what had been going on in the past. None of us owns that, so we are free from guilt. Are we sure this is what we want to do, because we continue to create all of these agencies and regulatory bodies and commissions and this, and that and the other? There are any number of persons who could now open my front gate and march into my yard.

Sen. Nicholas: Well, not quite so. To be fair—[*Interruption*]

Sen. Dr. Balgobin: Well, your amendments seek to address some of that; so, fair enough.

Sen. Nicholas: So what has actually been done, is that we have created new offences that are required under both local and international obligations. We have set in place specifically, who can and who cannot enter premises, and on what basis they can enter premises. We have set out quite clearly what happens after they enter the premises and seize. We have clearly outlined the time frames for analysis and, where appropriate, return of goods. So this has actually been a very clear-cut legislation, as it deals with new offences in the protection of our citizens against the manufacturer of illicit drugs.

Sen. Al-Rawi: Just to let Sen. Dr. Balgobin know, the Dangerous Drugs Act actually had these offences, because the original model was that the SSA coordinated with the Dangerous Drugs Act, but you are specifying in this legislation, you are packing new offences in this legislation which you had to look for inside of the Dangerous Drugs Act before but which, from my reflection of the law, existed before.

Sen. Nicholas: So there are no new fears with regard to persons entering your property.

Sen. Dr. Balgobin: Well, the reason I am asking the question specifically, Attorney General, is because the SSA has a reporting line to a civilian. It is not a constitutional entity, and the agency, like the police, different animal altogether. So I ask the question, is there room inside of here for mischief? I do not know. I certainly do not deal with any of these chemicals, but is there room for mischief? You may not always be sitting there. Can someone come later and do something with this?

Sen. Nicholas: The short answer is, there is always room for mischief, but we have sought to plug as many holes as possible. Therefore, it is not any civilian who can just turn up and enter premises. There is a process, a constitutional process of going to court, providing evidence that would meet a certain threshold, before a warrant can be issued.

Sen. Dr. Balgobin: Okay. I guess we will debate it as we go. That is fine.

Madam Chairman: Clause 4 be amended as circulated, and further amended in the definition of "National Control Drug System", by deleting the words "and electronic", and substituting the word "the", and further amended in the definition of "pre-export notification system", subsection (a), by deleting the "C", and the "A" from competent authority, and substituting "c" and "a"

Question put and agreed to.

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

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Sen. Al-Rawi: Madam Chair, I was happy with clause 5, but insofar as clause 6 relates—so clause 5, and I am only raising this by way of reference to what I am going to explain in clause 6. Clause 5 usefully employs section 5 of the SSA Act, which says that the agency may employ staff, et cetera, and that employees shall take, at the commencement of duties, an oath of security and allegiance. When we get to clause 6 now:

> "The staff of the Unit shall comprise the head of the Unit and such other staff as may be employed by the Agency."

I wondered why clause 6 did not specify also the obligation that, that staff as may be employed be also employed in accordance with section 5 of the SSA Act, because one could read that the oath of security and other requirements may be omitted in respect of the other employees brought on by clause 6.

Sen. Nicholas: It is implied the staff has come in—[*Interruption*]

Sen. Al-Rawi: So let us look at it this way. Clause 5: There shall be a Unit…the Unit shall by headed by a person who shall have training, et cetera, and…be employed by the agency in accordance with section 5 of the SSA Act.

Clause 6:

"The staff of the Unit shall comprise the Head of the Unit and such other staff as may be employed by the Agency."

But nowhere in there is there the tie back moving away from the SSA Act, and I am not very comfortable with the implication support that the staff of the Agency is obliged to be employed in accordance with clause 5 of the SSA Act, which is very specific.

"Every employee of the Agency…"

—because, remember, this unit is not the Agency. We are creating under law, a unit for the first time, and we are staffing the unit. Well, clause 5 says:

"There shall be established within the Strategic Services Agency a unit…."

Yeah, but then why do we specify in section 5(2):

"The Unit shall be headed by a person to be appointed by the Agency

…in accordance with section 5…"

Sen. Nicholas: We have no difficulty in amending clause 6 to include: "in accordance with section 5 of the Strategic Services Agency".

Sen. Al-Rawi: Thank you, hon. AG.

Sen. Dr. Balgobin: So, everybody has to be employed in accordance with section 5 of the SSA Act?

Madam Chairman: Clause 6, as amended, by including after the word "Agency", "in accordance with section 5 of the Strategic Services Agency Act".

Sen. Al-Rawi: Yes, Ma'am.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

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

Sen. Al-Rawi: Madam Chair, with respect to the functions of the Unit, clause 7, I was looking at it in the context of Schedule 4 to the Bill, and section 6 of the SSA Act, which describe the main functions of the agency. The SSA Act is not proposed to be amended in Schedule 4, and we are now—[*Interruption*]

Madam Chairman: Senator, could you just hold for a Procedural Motion?

Sen. Al-Rawi: Sure, sure.

Sen. G. Singh: Madam Chairman, I beg to move that the House continues to sit—to resume the Senate for the Procedural Motion for the continuance of the business at hand.

Madam President: The Senate shall now be resumed.

Senate resumed.

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. In accordance with Standing Order 9(8), I beg to move that the Senate continues to sit until the completion of the business at hand.

Question put and agreed to.

PRECURSOR CHEMICALS (NO. 2) BILL, 2014

Committee resumed.

Madam Chairman: Sen. Al-Rawi, you may continue.

Sen. Al-Rawi: Thank you, Madam Chairman. I was just asking a question perhaps more than anything else. Is clause 7 of the Bill, incongruous with the assignment of functions under section 6(1) of the SSA Act? So, the functions of the Unit are to do several things, letters (a) to (k). Section 6(1), the functions of the agency—meaning the SSA, 6(1)(a) in particular, to act as an office for centralizing information that could facilitate, et cetera, et cetera, narcotic drugs, psychotropic substances, et cetera. Is there any incongruity between the functions proposed to be specified in clause 7 versus section 6 of the Act? And also, would the Minister want to put a catch-all clause, by way of a new letter (l), for things that we may not have contemplated?

Sen. Nicholas: Section 6(1) of the Act sets out the wide and varied functions of the agency, but the unit does not carry all the responsibilities.

Sen. Al-Rawi: So it is not dovetailed?

Sen. Nicholas: Yes. It is specific to one or just a few of them.

Sen. Al-Rawi: Thank you, hon. Minister, Hon. AG, and may I ask whether you wanted to consider—if we look at section 6 of the Act, the SSA Act, 6(1)(m), page 7 of the Act:

> "do all such things as are incidental or conducive to the attainment of the objectives of the Agency."

There does not seem to be any general catch-all clause in this function under section 7, and I thought for things that we may not have contemplated, and so as not to stymie and make any functionality ultra vires the legislation, I thought that it may be useful to broaden it by putting a catch-all phrase in a new letter (l), or any other written law.

Sen. Nicholas: There is no harm in that.

Sen. Al-Rawi: I think it is a benefit as opposed to a harm, hon. AG, just to make sure you are not ultra vires the powers and functions.

Sen. Nicholas: So we will just quickly draft it and we will get back to you.

Sen. Al-Rawi: Much obliged, all right.

Madam Chairman: So we will return to clause 7.

Clause 7 deferred.

6.25 p.m.

Clause 8 ordered to stand part of the Bill.

Clause 9.

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

Sen. Nicholas: Madam Chair, clause 9 is amended to include:

A. In the *chapeau*, insert after the words "the Unit", the words "within forty-eight hours of the receipt of the request for the information".

B. In paragraph (g), to include "Chemistry/" after the word "the" and between "Food". So it would read: "the Chemistry/Food and Drugs Division;"

Sen. Al-Rawi: I think Chemistry/.

Sen. Nicholas: Yes, Chemistry/. It is no "/" it is just Chemistry Food and Drugs Division.

Madam Chairman: Are there any other comments? [*Crosstalk*]

Sen. Nicholas: The "/" is included. It is Chemistry/Food and Drugs Division.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

Sen. Nicholas: Clause 10 is amended as circulated please, Madam Chair.

Delete subclause (1) and substitute the following subclause:

"(1) The Minister may, by instrument in writing, designate suitably qualified persons as analysts for the purposes of this Act and shall furnish every such person with a certificate of his designation."

Question put and agreed to.

Clause 10, as amended, ordered to stand part of the Bill.

Clause 11 ordered to stand part of the Bill.

Clause 12.

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

Sen. Al-Rawi: Madam Chair, through you to the hon. Attorney General, having taken note of his assurance that the Competent Authority in the office of the CMO is adequate.

"The functions of the Competent Authority are to—

(a) notify the Unit...

(b) provide assistance to the Unit...

(c) work in conjunction with the Unit..."

Fine with me. I wonder hon. AG, when we get to (d) and (e):

"(d) input data relating to specified chemical substances on the National Drug Control System and the Pre-Export Notification System or such other information sharing system or mechanism as the Unit may require;

(e) report to the International Narcotic Control Board on matters relating to specified chemical substances; and"

I thought that (d) and (e) were more appropriate functions of the head of the SSA—for the head of the Unit, sorry, as opposed to the CMO. Does the CMO actually have responsibility for the National Drug Control System and the Pre-Export Notification System—I am just asking the question, I am not sure—and whether the reporting to the International Narcotic Control Board is something that the CMO carries out or is it the unit in the SSA that should be doing that?

"(f) liaise with and provide assistance to similar competent authorities..."

Well, I could understand that (f), so (d) and (e) are the ones that cause me a little concern.

Sen. Nicholas: I am informed that (d) and (e) are what is done already.

Sen. Al-Rawi: Yes, by the CMO, right? So the CMO actually has some functionality as it is. Yes?

Hon. Senator: Yes.

Sen. Al-Rawi: Okay, thank you, hon. AG.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 13.

Question proposed: That clause 13 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, I have a question. In suggesting that we maintain records for a minimum of five years, and that they be available, most entities are accustomed to either a four-year limitation or a six-year limitation, six years being for taxation and four years being for other matters. Why did we suggest five years especially as it contains invoices, et cetera? I would have preferred if we had gone for six.

Sen. Nicholas: Six years is appropriate, we agree. [*Crosstalk*]

Sen. Al-Rawi: Six, for income tax. Just so you do not have to keep three time frames in mind.

Madam Chairman: Clause 13 is amended as follows:

By deleting the word "five" and inserting the word "six".

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14.

Question proposed: That clause 14 stand part of the Bill.

Sen. Nicholas: Madam Chair, it is proposed that clause 14 be amended as circulated. In subclause (1), insert after the word "imported", the words "or exported".

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Clause 15.

Question proposed: That clause 15 stand part of the Bill.

Sen. Nicholas: Madam Chair, it is proposed that clause 15 be amended as circulated.

In subclause (2), delete after the words "by day or night," the words "without a warrant" and substitute the words "on the authority of a warrant issued on an ex parte application by a Magistrate".

Sen. Al-Rawi: Hon. AG, through you, Madam Chair. Thank you, hon. AG for the amendments circulated, which I think is a very good step in terms of the due process blanket that we will be adding in particular to subclause (2) of clause 15. May I ask with respect to 15(1)(d), (e) and (f), all use the term "this Act" and "this Act".

"(d) to ascertain that the licences required under this Act are displayed on the premises;

(e) to make such examinations, inspections investigations and inquiries as…to ascertain whether this Act is being complied with;"

This legislation contemplates the Dangerous Drugs Act, the Pesticides and Toxic Chemicals Act and the SSA Act, and I was wondering if whether we needed to factor that or have it only in relation to this Act. [*Crosstalk*]

AG, may I recommend that we come back to this, because there has to be a consequential amendment in light of the removal of licences because we do not have licences under this Act, but we have it under the Dangerous Drugs Act and the Pesticides and Toxic Chemicals Act, and you may want to consider. Perhaps your team could work on it so that we do not keep the pace off for the other aspects, and then I have an observation on subclause (2).

Sen. Nicholas: It is proposed that (d) be removed because the licences referred to in (d) are dealt with in the Pesticides and Toxic Chemicals Act so that the whole subclause (d) could be removed.

Sen. Al-Rawi: Yeah, but my question—I appreciated that—was it may be useful for the Unit insofar as it has some degree of overlap with things that happen under the Pesticides and Toxic Chemicals Act to actually see whether licences under that legislation have been properly maintained. I do not know if it is something—I am unsure as to whose jurisdiction it is going to be to check that precursor chemicals which may innocently be brought in there are not lost.

Sen. Nicholas: No overlap.

Sen. Al-Rawi: Okay, good. Well then I would go back to my first observation that would licences be removed under this Act, that it would not be anchored to any provision and whether:

> "(e) to make such examinations, inspections, investigations and inquiries as may be necessary to ascertain whether this Act is being complied with;"

Was that too narrow? Did you need to broaden it to any other written law?

Sen. Nicholas: We are happy as is?

Sen. Al-Rawi: Thank you, hon. AG. May I also refer to subclause (2)?

Sen. Nicholas: So, we need to renumber, so that "(e)" becomes "(d)".

Sen. Al-Rawi: So delete "(d)" with consequential renumbering.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Right. And then in subclause (2):

"A police officer or customs officer" as opposed to a designated officer who operates under subclause (1). Those two entities—and thank you for the refactoring on the authority of a warrant issued on an ex parte application by a magistrate.

AG, I recognize that laws such as the Copyright Act, even the Trade Marks legislation we just did the other day give very large powers and inspection rights on magisterial warrants even on an ex parte basis with serious consequences to them. However, I know that the taking away of information in particular as this contemplates—licences, documents, whatever it may be—usually the High Court practice is that we subscribe to an Anton Piller type protection which is at a slightly higher standard. So that an ex parte application to a High Court judge carries with it much greater supervision than a magisterial supervision, because of the application of the rules in the Anton Piller circumstances, which require a supervising officer of the court to accompany on the warrant.

I was not sure, even though I recognize, as I have said, the copyright intrusion and trademarks intrusion, if we were not lowering the standard because we are talking about large industry application here, and insofar as you can enter, take things away, copy information. Sen. Vieira do you have a view on it?

6.40 p.m.

Sen. Vieira: Yeah, I have a view. I think the Anton Piller type order is not slightly higher, that is a very, very high threshold. I think what is being prescribed here is consistent with the Telecommunications Authority Act, the Environmental Management Act, a lot of the authority type Acts. So, I am comfortable with it, and I do want to congratulate Government for heeding the concerns that were expressed, certainly on the Independent Bench, and making good faith attempts to address those concerns.

In the main, I am happy. I have one small suggestion, and I will tell you where the suggestion comes with. I am happy with the warrant, but we have been having a number of situations in Trinidad of late, where people pose as medical officers, police officers, that sort of thing. So even though you have the warrant, if you look, like in the Environmental Management Authority Act, where the person has to present their identity card and reasonable evidence of authorization, or in the Pesticides and Toxic Chemicals Act, where before he enters he has to produce to the occupier or person in charge of the place or vehicle, his certificate of designation and some duly authenticated document showing his power.

I would like to suggest that every police officer, or whoever is executing the warrant, issued under 15(2), shall have the warrant with him or her, will produce it on initial entry, and, if requested, at any subsequent time. Also, I saw in another piece of legislation where the officer who executes the warrant has a week within which to give a report after the seizure of anything under that warrant, give to the owner or occupier of the place or thing searched, a written notice specifying the date and time of the execution of the warrant, identity of the person who executed the warrant, and the thing seized under the warrant. So it keeps people honest, you know. I think those would be two useful suggestions. And then coming back to what Sen. Al-Rawi was saying, you may get your goods returned to you, but you may get it returned to you not in the condition in which it was taken. So, there should be some right, as we had looked at in the Trade Marks Act, to apply for some sort of compensation in that event to the court.

Sen. Al-Rawi: Hon. AG, I want to endorse everything that Sen. Vieira said, because that is why I phrased the enquiry as to the Anton Piller versus magisterial warrants the way I did. I accept that there is constant use of the magisterial application, and the reporting aspect ties in to a later clause when we are giving notice of destruction which is not factored into the Bill, as we will come into a different section.

So the production of—may I suggest, hon. AG, that having heard what we both said, because this was a concern of the Opposition as well, I do not know what your policy position would be, but, apart from endorsing the position, I will show you, in a section in a little bit later on, about the notice requirement, the destruction of property. Maybe it is something that you want to consider while we press on with the other points in the legislation, in the Bill, but I want to endorse all of what was said there and to point out that in the Planning and Facilitation of Development Bill, when we passed that, we also dealt with similar conditions for report, et cetera.

Sen. Nicholas: Absolutely. I am minded to accept the amendments proposed by Sen. Vieira.

Sen. Vieira: I could draft it.

Sen. Al-Rawi: Or they could think about it and come back to us with the wording.

Sen. Nicholas: And we would appreciate the drafting—

Sen. Vieira: I will draft it for you now.

Sen. Nicholas:—except the issue of compensation, because we believe that compensation could be dealt with in another way.

Sen. Vieira: Fair enough. I mean, there is nothing pre-empting a person seeking redress in any event.

Sen. Al-Rawi: Yes.

Sen. Vieira: It was just a way of trying to signal to people, well, you know, you need to be mindful, but I am not going to fight on that one, but I will do the other suggested amendments.

Hon. Senator: We are obliged.

Sen. Al-Rawi: May I suggest you wait.

Madam Chairman: Hon. Senators, we will revisit clause 15.

Sen. Al-Rawi: Madam Chair, sorry, just one moment. Just before you move off 15 as a last thought to perhaps leave with you, clause 15 at page 15, subclause (4):

> "A police officer or a Customs officer may institute and undertake criminal proceedings against any person before a Magistrate in respect of any summary offence under this Act."

I wondered whether designated officers are to be factored in any way, or are we going for the traditional clothing of the right to prosecute via Customs and the police. If it was the traditional way I am okay with that. Secondly, was there any circumstance where the DPP's permission for prosecution was required for the indictable route?—because this only contemplates the summary route.

Madam Chairman: Hon. Senators, we will return to clause 15.

Clause 15 deferred.

Clause 16.

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

Sen. Al-Rawi: One moment, please, Madam Chair. Clause 16(2)(c), the animus attached there:

"knowingly makes any false or misleading statement..."

Is "wilfully" something that ought to be contemplated as included into the animus there? So that is "knowingly and wilfully", or is it just "knowingly"?

Sen. Nicholas: It has been "knowingly" throughout the rest of the legislation.

Sen. Al-Rawi: Okay, I was not sure.

Sen. Nicholas: Yeah.

Sen. Al-Rawi: Yeah. Thank you, Madam Chair.

Question put and agreed to.

Clause 16 ordered to stand part of the Bill.

Clause 17 ordered to stand part of the Bill.

Clause 18.

Question proposed: That clause 18 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, clause 18(1) on page 16:

"An officer who seizes anything or takes a sample under section 15(3) may submit the thing or sample to an analyst for analysis."

I was concerned as to whether it should be "shall" as opposed to "may". Secondly, I was concerned about the provision of notice and disclosure to the defendant in subclause (3). So:

"Where the results of the analysis show specified chemical substances, the sample and certificate or report shall be taken to the Magistrate by the officer."

I was wondering whether notice should also be provided to the person from whom that sample or substance originated, and whether there should be a positive obligation that notice be provided to that person. In subclause (4):

"Notwithstanding any other law, in any prosecution or proceedings under or pursuant to this Act, a certificate or report issued by an analyst…"

—did we intend to put "a certificate" for any other piece of law?—insofar as this articulates with the Pesticides and Toxic Chemicals and the Dangerous Drugs Acts, and the Securities and the SSA Acts. So, I wondered whether we were boxing ourselves in by reference only to this Act in subclause (4).

Sen. Nicholas: I have heard you but, on this occasion, I think we would like to keep it as is.

Sen. Al-Rawi: It is the rationale, hon. Ag. I have no difficulty with it, what I wanted to do was to have the understanding. I could accept the boxing in, in (4), if that is the intention. If the other legislation has routes itself, and if that is the answer, well, then I would be good with that. In subclause (3), I was concerned about—now I can accept that perhaps the disclosure prior to prosecution could take care of disclosure.

Sen. Nicholas: Yeah.

Sen. Al-Rawi: I was concerned about the fact that you had to take the sample and certificate or report to the magistrate. Did I really want to take that sample across, you know, 200 barrels of acetylene on the back of a trailer. I do not know—you know, sometimes you see it outside the Magistrates' Court, you will see a container load of Scotch Whiskey labelled as milk outside the court, produced for the court.

Sen. Nicholas: Well, it says:

"…the sample and certificate or a report…"

Sen. Al-Rawi: I did not know if the certificate or report was the—the use of "or" was for certificate or report, but did you—why should the sample go there if we have a report? I accept that it would be the evidence, but the evidence—well, they usually bring the sample because of the requirement in the law, but if I have a report—so a ballistics report, I do not necessarily have to bring it, save that the law tells me I must bring the bullet or the gun, et cetera, but suppose it is something that cannot be brought because of the nature of the product, or it was destroyed in the course of testing or analysis, it has been exhausted. In our DNA legislation we do not require the DNA sample to be brought, we bring the report.

Sen. Nicholas: Yeah. This is not the same.

Sen. Al-Rawi: I am trying to look at ways to not burden the system. That is what I am looking at. If I am looking at this, progressively, if I have a report which is prima facie evidence of the analyst's recommendation—

Sen. Nicholas: We would prefer to leave it as is for now.

Sen. Al-Rawi: Okay. And on "may" versus "shall" in 18(1).

Sen. Nicholas: Sorry?

Sen. Al-Rawi: "May" versus "shall" in 18(1), is it the intention that not everything needs to be examined so therefore we use "may"?

Sen. Vieira: It seems so to me.

Sen. Nicholas: Yes, "shall" we accept.

Sen. Al-Rawi: No, I want to be careful about "shall". This is really a policy question to you, is it that "may" is sufficient because we do not necessarily want to have everything analysed? Or do we want to put "shall" where everything must be analysed whether it is good or not? Once you let me know what your policy position is in the "may" versus "shall", I think that may answer the question.

Sen. Vieira: To me it seems that "may" is preferable; "shall" could put you in a situation where you have to analyse everything—

Sen. Al-Rawi: Oblige to analyse everything.

Sen. Vieira:—and certain things are self-evident.

Sen. Al-Rawi: Sure.

6.55 p.m.

Sen. Nicholas: Well you see, the thing is, once it is seized—otherwise what is the basis for seizing it?

Sen. Al-Rawi: Unless it was reasonable suspicion, and then it turned out when they saw it that, you know, well we are sorry we wasted your time—look the thing back. So again, the practical consideration as to whether I had overworked the system or not, I just wanted to know what the rationale in terms of policy was?

Sen. Vieira: You see, if you incorporate the amendments that I proposed there, it is the antidote to the possibility because the police officer would have had to identify all the things that were seized.

Sen. Al-Rawi: Right. Yes. That would do it. Yeah. Thank you. Insofar as we have deferred clause 15 to come back to it, to review those amendments, I withdraw that concern on "may" versus "shall". Thank you, Sen. Vieira.

Madam Chairman: AG, you have amendments?

Sen. Nicholas: Yes, Madam Chair, as circulated, Madam Chair.

Sen. Al-Rawi: I do not know if Sen. Vieira circulated it.

Sen. Drayton: If I may? 18?

Madam Chairman: Yes.

Sen. Drayton: I have a similar amendment to 18B because what we were trying to correct there is a situation where property is seized and it was found that there was no criminal offence, but the person's property was not returned to them. Now, I am quite happy to accept the amendment by the hon. AG, but two things I want to question here. One, where it says, let me just read it:

> "Where the results of the analysis do not show specified chemical substances or specified chemical equipment, the person from whom the sample or thing was seized shall not have committed an offence, and the thing seized under section 15(5) shall be returned to the person within one month of the submission of the report to the officer."

I just wanted an explanation or clarification with respect to this report because it seems to me if we do not put in some qualifying period there within a maximum of six months or something like that, it means that it is still indefinite as to when the person's property will be returned. So, I just needed clarification on that matter. Once I am satisfied, I am quite happy to withdraw my amendment because this goes to the heart of the issue that was raised.

Sen. Nicholas: Senator, subclause (2) deals with your concern.

Sen. Drayton: Which is 18(2)?

Sen. Nicholas: 18(2) which will now read:

"Where an officer submits to an analyst any sample or thing obtained in accordance with subsection (1), the analyst shall examine and analyse any thing or sample submitted to him under subsection (1), and produce a certificate or report setting forth the results of his examination and analysis within one month of the submission of the sample."

Sen. Drayton: Okay. We have included the one month.

Sen. Nicholas: Yes.

Sen. Drayton: Well that is excellent. I am quite happy then to withdraw my amendment because this satisfies the position. Yes.

Question put and agreed to.

Clause 18, as amended, ordered to stand part of the Bill.

Clause 19.

Question proposed: That clause 19 stand part of the Bill.

Sen. Al-Rawi: Hon. AG, I was wondering if we needed to include a prescription for time with respect to bringing the specified chemical equipment. Specified chemical equipment could mean a very large amount of expensive equipment or something quite simple:

"Where any specified chemical equipment is seized under section 15, an officer shall bring it before a Magistrate…"

I was wondering about the practicability of bringing it, and whether it needed to be brought as soon as it is practicable as well. So sometimes in respect of detention of persons we know the law says, as soon as is practicable.

Sen. Nicholas: Yeah.

Sen. Al-Rawi: So the "as soon as is practicable" usually puts a requirement that they must act within the rules of the police, et cetera, but with no time frame specified it may languish, one could argue.

Sen. Nicholas: Yes. And we certainly would not want that, given the amendments we have already made to clause 18.

Sen. Al-Rawi: Correct.

Sen. Nicholas: Being consistent with clause 18, I would have no difficulty with your amendment—"as soon as is practicable".

Sen. Al-Rawi: Thank you.

Madam Chairman: Where are we inserting that?

Sen. Al-Rawi: After the word "Magistrate".

Madam Chairman: "as soon as is practicable". AG, you have an amendment?

Sen. Nicholas: Yes, please. Madam Chair, I will circulate it.

Sen. Al-Rawi: Sorry. Madam Chair, if I may borrow a leaf from Sen. Prescott in his absence. I was just wondering about how this language reads in 19 subclause (2).

> "Notwithstanding any other written law, unless the Court otherwise directs, any device apparatus or article which is a specified chemical equipment…"

Okay. That was deleted? [*Crosstalk*] I see deletion of subclause (2).

Sen. Nicholas: We have deleted it in subclause—we have deleted here, but it comes back in 20(10).

Sen. Al-Rawi: Okay. In 20(10). Sorry. I did not see the little line there.

Sen. Nicholas: We would deal with the wording, but we will deal with it in 20(10).

Sen. Al-Rawi: Okay. Thank you, hon. AG.

Madam Chairman: Sen. Drayton, you have withdrawn your amendment to clause 19?

Sen. Drayton: Yes. Because what the hon. AG produced, I think that was quite satisfactory.

Madam Chairman: Very well. The question is that clause 19 be amended as circulated and further amended by inserting in subclause (1) after the word "Magistrate", "as soon as is practicable".

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

Clause 20.

Question proposed: That clause 20 stand part of the Bill.

Madam Chairman: AG—

Sen. Nicholas: Madam Chair, as circulated, please.

Sen. Al-Rawi: May I ask a question? This really resides in the contribution of your predecessor, Attorney General. He had, in his contribution in piloting this Bill on behalf of the Minister of National Security then, made a statement which had me a little bit confused. I do not know if I heard it wrong, but he said that this law was ground breaking because it had the effect of delinking from the inchoate offence. He was referring to something that we had done in the Proceeds of Crime Act where we allowed the forfeiture of property without conviction. But in clause 20:

"Where a person is convicted of an offence…"

Then the property moves for forfeiture. Is it that there was no delinking? In order words then, you must still have, as the language suggest here, the conviction to have the forfeiture?

Sen. Nicholas: You would need the conviction.

Sen. Al-Rawi: Right. So there was not an intention then to do as we did in the Proceeds of Crime Act which is to allow for forfeiture prior to a conviction?

Sen. Nicholas: No.

Sen. Al-Rawi: Okay. Thank you. May I ask—I was wondering in subclause (2) on page 17:

"(2) Facilitating the commission of an offence under this Act shall be taken for the purpose of this section to include taking any steps after the commission of the offence for the purpose of disposing of any property relating to the offence or of avoiding apprehension or detection."

That is very wide and very low a standard. I was wondering whether knowingly was required to qualify the animus there? Because it seems that someone may innocently infringe, facilitating the commission of an offence. When I looked to the Proceeds of Crime Act I was not sure whether this bar was the same as that.

Sen. Nicholas: I agree with you. "Knowingly" should be included.

Sen. Al-Rawi: Then perhaps it may be—

Sen. Nicholas: To "knowingly facilitating"?

Sen. Al-Rawi: "…to include knowingly taking any steps after the commission of the offence for the purpose of disposing of any property…"

"Facilitating the commission of an offence under this Act shall be taken for the purpose of this section to include"—I think "knowingly" should go in there before "taking". I am not sure. Sen. Vieira?

Sen. Vieira: I think "knowingly" should go before "taking".

Sen. Nicholas: Very well.

Sen. Al-Rawi: If I may ask? Thank you for the proposed amendments to subclause (3), (3)(a), (3)(b), (4), (5), (6), (7). When we get to insertion of a new subclause (10) after (9)—perhaps I should come to that in sequential order. Yeah. Subclause (4):

"(4) Where the prosecutor of an offence under this Act proposes to apply for the forfeiture of any specified chemical equipment under subsection (3), he shall give to any person who, to his knowledge, was the owner thereof at the time of the seizure, notice of—

the seizure;

the intention…

the grounds…

however, the notice shall not be required if the seizure was made in the presence of the owner or any employee or agent of the owner."

The inclusion of "or any employee or agent of the owner" as excluding the requirement to provide notice troubled me insofar as employees and agents could be people passing in the wind. From a due process point of view and from a state liability point of view, it would assist the State to have notice provided to the owner in any event. So that one could make sure that the State did not find itself the recipient of a suit which it could not get out of.

So subclause (4), my question is whether the end of it:

"however, the notice shall not be required if the seizure was made in the presence of the owner or any employee or agent…"

Whether that should stay? I am concerned that it causes some problems in its current state. I welcome anyone's point of view on it. Anthony?

Sen. Maharaj: Sen. Al-Rawi, I see your point with employee, but agent, especially if it is a large company, is agent not defined in law with specific terms as acting on behalf of. So they are so legally entitled.

Sen. Al-Rawi: My problem is that an agent could be implied in some circumstances in law, and I could not see—you see, if we had (4) standing on its own without this tail end, it is good because it is to the knowledge of the prosecutor. So if the prosecutor does not know who the owner is and he can prove that he does not know who the owner is, then he is good to go. But it is a very simple thing when we are destroying property itself as a due process point and a proportionality point, to just issue a notice saying, look it has been seized and we are going to forfeit it because it is property we are dealing with. So the employee and agency aspect concern me. An owner I would have no problem with.

Sen. Vieira: Yeah. I agree. Because an employee could be the cleaner.

Sen. Maharaj: An employee could be the cleaner, but what about an agent. I take your point about an implied agency, but if—depending on the size of it. If it is a large company, the owner may not—it may not be practicable for the owner to be—[*Interruption*]

Sen. Al-Rawi: But the law would be satisfied just be the issuance of a written notice to the owner—person, owner. And if you cannot find them, the way that the court deals with it is to advertise it.

Sen. Vieira: I was going to suggest, instead of employee—

Sen. Nicholas: Senators, if I may? We are quite prepared to accept the deletion of "or any employee or agent of the owner" and just leave it as "owner".

Sen. Al-Rawi: I think that that would be safer.

Sen. Vieira: I was going to suggest "a person who may have an interest in the thing seized".

Sen. Nicholas: Well then that makes it too wide—with due respect. "In the presence of the owner". That is the only time that the notice shall not be required.

Sen. Al-Rawi: Thank you.

Sen. Dr. Mahabir: Just for clarification. If we are talking about a limited liability company, who is the owner? Who is the owner of the chemical?

Sen. Al-Rawi: The shareholders.

Sen. Dr. Mahabir: Yeah. Well could we identify the owner, you see?

Sen. Al-Rawi: Well the owner is the company and you provide notice to the secretary of the company. Under the Companies Act, so you can send it by registered mail.

Sen. Nicholas: The law set that out very clearly.

Sen. Al-Rawi: Section 221, I think, of the Companies Act. I cannot remember. Sorry, Madam Chair, I would not be much longer. That takes care of (6). Sen. Vieira, if you had something else, I wanted to come to the new (10) after you are finished.

Sen. Vieira: I was just going to read it again.

"Where the prosecutor of an offence under this Act proposes to apply for the forfeiture of any specified chemical equipment under section 3."

7.10 p.m.

Now, equipment could be very expensive, it could be quite significant.

"He shall give to any person who to his knowledge was the owner thereof at the time of the seizure, or may have had an interest in the things seized…notice of the seizure."

Because, you are the prosecutor, you may have knowledge, you may have reason to believe that this person has an interest. I do not—

Sen. Nicholas: How do you know that person has an interest? How do you specify it?

Sen. Al Rawi: A mortgagee, a debenture holder. Let us say you went and you seized a large piece of equipment worth a couple million dollars and you see that there is a registered charge in relation to it. I mean, I follow what Sen. Vieira is saying there.

Sen. Vieira: In fact let me say, if I were running a precursor lab, I would not be putting my equipment at risk, I would have things on hire purchase, I would have things borrowed, and I would be using it, because in the event they come and seize it I do not lose anything. But a bank that is yet to be paid or a finance company would want to recover its equipment.

Sen. Nicholas: Yes, but the person will be liable to the bank.

Sen. Al Rawi: But, maybe a man of straw and—you see, it is the deprivation of the right to property, and in depriving the owner, sure, one thing. But, insofar as we have equitable and legal ownership, and notice of the two different types

via registration at the company's registry under statements of charge or bills of sales at the registry, or chattel mortgages, or deeds under debentures and other instruments, it may be that the equitable interest needs to be captured as well.

Sen. Nicholas: I am troubled to use a person of interest.

Sen. Al Rawi: Does the Interpretation Act lend any assistance in this regard? I have not checked it to know, but I fully grasp Sen. Vieira's point and understanding for it.

Sen. Nicholas: I see the point and I understand it, but I just do not think that—

Sen. Al Rawi: You see, subclause (5) speaks to a person having a claim to any specified equipment. So, I could see legal and equitable division there anchoring and going well.

Sen. G. Singh: So that would cover also your person of interest.

Sen. Al Rawi: But the question is provision of notice. So, (4) deals with who we are giving notice to of the forfeiture.

Sen. Nicholas: So, in fact, I think it is cleaner to use "a person having a claim".

Sen. AL Rawi: Yes, in (4) itself. That would take care of it clean. Sen. Vieira.

Sen. Vieira: I could live with that.

Sen. Al Rawi: So, as opposed to "was the owner"—

Sen. Nicholas: To his knowledge has a claim.

Sen. Al Rawi: Has a claim to any specified chemical equipment, or just who has a claim?

Sen. Vieira: Who has a claim—

Sen. Nicholas: Who has a claim thereof.

Sen. Al Rawi: Thereto.

Sen. Nicholas: So, in (4) would read:

"Where the prosecutor of an offence under this Act proposes to apply for the forfeiture of any specified chemical equipment under subclause (3), he shall give to any person who to his knowledge has a claim thereof."

Sen. Al Rawi: Therein or thereto as opposed to thereof. Thereto.

Sen. Nicholas: Yes, thereto, at the time of the seizure.

Sen. Nicholas: Thank you, AG. That is an excellent suggestion.

Madam Chairman: The question is that clause—

Sen. Al Rawi: Sorry, Madam Chair, on 10: subclause (10) as is in the circulated version. "Notwithstanding any other written law", and this is the Sen. Prescott memorial reference now, if I may put it that way. Not in the memorial as in having passed reference, right? [*Laughter*] But, along his line, because he is very much alive and well.

> "Notwithstanding any other written law unless the court otherwise directs any device, apparatus or article which is a specified chemical equipment."

Is the word "a" really required there?

Sen. Nicholas: No, it is not.

Sen. Al Rawi: Thank you. Thank you, Madam Chair.

Madam Chairman: The question is that clause 20 be amended as circulated and further amended by inserting in subclause (2) after the word "include" the word "knowingly", and in subclause (4) by deleting after the word "knowledge", "was the owner thereof" and inserting the words "has a claim thereto".

Sen. Nicholas: "Who has a claim thereto."

Sen. Al Rawi: No, "who" is there already, sorry. Yes, "has a claim thereto". Yes, Madam Chairman.

Madam Chairman: And further amended in subclause (4)(c), to delete after the word "owner or any employee or agent of the owner."

Sen. G. Singh: Chair.

Sen. Al Rawi: That is the bit that was circulated, so (10) comes in as circulated and then as further amended.

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Clause 21.

Question proposed: That clause 20 stand part of the Bill.

Madam Chairman: You have amendments?

Sen. Dr. Mahabir: Madam Chair, I had circulated an amendment on that as well, and the basis of the amendment was straightforward. I simply need the assurance from the Attorney General. The reason for the amendment was simply this. We are speaking about precursor chemicals, it is true. That is the text of this Bill, that is the raison d'être for the Bill, but we do know that the end product of this Bill is to prevent the production of the narcotics and psychotropic substances. And, it has come to light that widely available, commercially available products can be used to produce these substances in addition, of course, to the precursor chemicals, and I simply wanted to get the assurance from the hon. Attorney General, that somewhere else in the laws of Trinidad and Tobago it is currently illegal to use cough syrup and codeine to make one of these narcotic psychotropic substances. That is what I wanted to get. Then, if it is so, then I withdraw the amendment.

Sen. Nicholas: It is so, in the Dangerous Drugs Act.

Sen. Dr. Mahabir: Okay, and it is clearly stated in the Dangerous Drugs Act, that someone buying cough syrup, using his kitchen to make one of these narcotics is committing an offence. Could you for the record indicate again what the punishment for that kind of offence would be? Because I think it is a serious charge and I will tell you why. It is a serious charge because it is going to put a lot of young lives at risk, especially youngsters who are producing these things in small quantities, and for public edification, and in the public interest I simply would, for the record, like to be assured that this particular practice carries a heavy penalty.

Sen. Nicholas: What you have actually outlined is the offence of diversion and the offences as the penalties are as stated:

> "Upon summary conviction a fine of one million dollars and to imprisonment for three years, or upon conviction and indictment, a fine of three million dollars and imprisonment for five years."

Sen. Dr. Mahabir: I am very happy to hear that, hon. Attorney General, and I respectfully withdraw my amendment. Thank you.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22.

Question proposed: That clause 22 stand part of the Bill.

Sen. Nicholas: Madam Chair, clause 22 be amended as circulated.

"In subclause (1)(a), insert before the word "to be used in the", the word "unlawful".

Question put and agreed to.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23.

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

Sen. Nicholas: Madam Chair, clause 23 be amended as circulated:

A. In subclause (1)(b), delete after the words "imprisonment for", the word "one" and substitute the word "two".

B. In the chapeau of subclause (2), after the words "activity and who" insert the words "without lawful authority or reasonable excuse".

Sen. Al Rawi: Just a question on clause 23 to you, Madam Chair, and hon. AG.

"A person who engages in any prescribed activity without a licence commits an offence and is liable..."

I was wondering whether "knowingly" ought to be included there, because, again, of the consequence of an innocent infringer, and I am honestly not sure if we want, from a policy prescription, to be at a bare statement or—[*Interruption*]—so, the question would be, if it is a strict liability intention, what is a prescribed activity without a licence? And was it strict liability prior?

Sen. Vieira: They are very oppressive.

Sen. Al Rawi: Yes, because you could find yourself in serious trouble on this. You see, AG, here is the concern, right. So, prescribed activity is defined at page 5 of the Bill—manufacturing, wholesale distribution, marketing, importation, exportation, storage, possession, transportation or delivery of a specified chemical substance." A specified chemical substance is also defined, "precursor chemicals and other chemical substances listed in Schedule I."

Now, precursor chemicals under movement of a licence which has expired without your knowledge in a strict liability circumstance puts you down to an offence.

Hon. Senator: It is an offence.

Sen. Al Rawi: Yes, I accept it is an offence. The question is, are we comfortable with the offence being, as we say, strict liability? Because that is a very, very wide—"A person who engages in any prescribed activity"—transportation on a truck—"without a licence commits an offence", and the licence here is to be viewed in the context of another piece of law, because we have removed the definition of licence.

Sen. Nicholas: I am afraid the policy comes down hard on this one.

Sen. Al Rawi: So, where does the licensing requirement come about, AG? The licensing requirement come about the Pesticides and Toxic Chemicals Act.

Sen. Nicholas: You are answering your own question.

Sen. Al Rawi: I know because I know where I want to go already. [*Laughter*] I am answering it because there are caveats in that licensing arrangement, and these are not treated as strict liability crimes in the Pesticides and Toxic Chemicals Act. But, you are making it a strict liability offence in this Act, and I honestly have not factored the two side by side and my alarm bells are ringing. I am not saying that I have a problem per se, but something tells me to pay attention to it. That is what is ringing right now.

Sen. Vieira: Hon. AG, I share my friend's concern, because this can be very, very heavy handed. My suggestion would be:

> "A person who has a licence to engage in any prescribed activity and who without lawful authority or reasonable excuse breaches any condition of the licence commits an offence."

But, I think we need to give some kind of opportunity for an explanation, because he is not only getting his licence revoked—and you could put a man out of business—but, he is also facing heavy fine and jail time.

Sen. Al Rawi: That is in subclause (2), eh.

> "A person who has a licence to engage in any prescribed activity and who breaches any condition of the licence commits an offence."

Sen. Vieira: I am looking at (2).

Sen. Al Rawi: Yes, (2), and I thought that (2) needed to have knowingly or willfully or something around there. AG, I hear you and I know that we have to be true to our international obligations, et cetera, but, could I please ask you to have a second look at it? If now does not lend itself to that. [*Interruption*] You may want to take a look at it, because something tells me that I am making a mistake.

Sen. Nicholas: We will commit to have a look.

Sen. Vieira: "Without lawful authority or reasonable excuse", and let the court decide.

Sen. Al Rawi: Yes.

7.25 p.m.

Sen. Vieira: Because he is going to be charged with a criminal offence, let the court decide.

Sen. Nicholas: Sen. Vieira, you seem to have won over the technical staff. [*Laughter*]

Sen. Vieira: Thank you.

Sen. G. Singh: Just repeat what you have please.

Sen. Nicholas: So, if you repeat it for the sake of—

Sen. Vieira: Well I was simply going to insert—well, I was looking at subclause (2).

> "...and who without lawful authority or reasonable excuse breaches any condition of the licence commits an offence and is liable—"

Sen. Al-Rawi: Because two qualifies one.

Madam Chairman: Could you read that again, please.

Sen. Al-Rawi: In subclause (2).

Sen. Vieira: So insert after the word "who" and before the word "breaches", "without lawful authority or reasonable excuse". [*Crosstalk*]

Sen. Al-Rawi: Because (1) and (2) are separate offences, eh. I would have used the word "knowingly" in (1).

Sen. Nicholas: So (1) remains as is and (2) is amended.

Sen. Al-Rawi: You sure? Right. You sure the word "knowingly" does not need to be put into (1), because again it is a matter of judicial discretion and "knowingly" has, you know, been determined on so many occasions. I am honestly not sure AG. You would leave (1) as it is, Sen. Vieira? Okay.

Madam Chairman: Clause 23 be amended as circulated and further amended as follows:

A. In subclause (1) (b), delete after the words "imprisonment for", the word "one" and substitute the word "two".

B. In the *chapeau* of subclause (2), after the words "activity and who" insert the words "without lawful authority or reasonable excuse".

Is that the word "or" or "and", Senator?

Sen. Vieira: "or".

Madam Chairman: "without lawful authority or reasonable excuse."

Question put and agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24.

Question proposed: That clause 24 stand part of the Bill.

Sen. Nicholas: Madam Chair, clause 24 be amended as circulated.

In subclause (1):

(A) In the *chapeau,* insert after the words "person who", the word "knowingly".

(B) In paragraph (c), delete the word "knowingly".

Question put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clause 25.

Question proposed: That clause 25 stand part of the Bill.

Sen. Al-Rawi: Just one second, eh, Madam Chair. I had a question on the side of this and I do not know if it is taken care of practically. But my question was the obligation to retain the sample unless it is destroyed completely as in testing. Because it says here:

"If, in any prosecution for an offence against this Act, it is proved that a sample which was taken from any specified chemical substance possesses particular properties, it shall be presumed, until the contrary is proven, that the whole of such substance possesses the same properties."

Usually that can be disproved where the sample is kept, but I do not know if there is any obligation to keep the sample. Because we are making a presumption that the whole is comprised of the part, but the ability to make a, well I guess, maybe I am answering my own question again, but I guess a part sample of the other whole and a contradictory report by another expert could probably deal with it. Thanks for indulging me. I withdraw.

Sen. Nicholas: It is always good to speak it out.

Question put and agreed to.

Clause 25 ordered to stand part of the Bill.

Clause 26.

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

Sen. Al-Rawi: So we have added subclause (3), right?

Sen. Nicholas: Circulated and amended.

Delete after the words "Schedules 1", the words "and 2" and substitute the words ", 2 and 3".

Sen. Al-Rawi: Okay, thanks.

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

Clause 27.

Question proposed: That clause 27 stand part of the Bill.

Sen. Al-Rawi: Two questions to clause 27, through you, Madam Chair. One, whether we wanted to prescribe what the penalty for a breach of regulations will amount to, so that we do not get stuck with a $500 penalty under the Interpretation Act for breach of subsidiary legislation, section 16 I think.

And then secondly, whether the regulations ought to be put for negative resolution, because this is potentially a multibillion dollar industry. [*Crosstalk*]

Sorry if I am overhearing, right, but because you do not know what you want to do from time to time, this being under a veil of ignorance, I would suggest that you allow—instead of coming back from time to time to amend the Act that we put in the thing, a breach of the regulations shall be, you know, attract a fine of $10,000 or whatever it may be. But the point is you should at least have the ability to have an effect by regulations. [*Crosstalk*]

Maybe I should say that on the record, insofar as there are some deeper considerations to be made to the Schedule to amend the SSA Act itself, and you may want to get the wording right on clause 15(a), et cetera.

Sen. Nicholas: Yeah, I have that.

Sen. Al-Rawi: Okay, so you have it there. I do not know if you want to take it on another occasion so that you could at least look at it. We will take two minutes in committee stage next time. No? Okay. [*Crosstalk*]

Sen. Nicholas: Clause 27(2) to read:

"Regulations made under this Act shall be subject to negative resolution of Parliament."

Sen. Al-Rawi: And are you going to consider—did you want to consider putting a penalty for the breach of the regulations. You need to draw it up. So you will defer the rest of it?

Sen. Nicholas: It will be considered.

Sen. Al-Rawi: Okay.

Sen. Vieira: While you have the boat going for you, I say take advantage of it. [*Laughter*]

Madam Chairman: Clause 27 be amended as follows:

Insert the following new subclause:

"(2) Regulations made under this Act shall be subject to negative resolution of Parliament."

Question put and agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28.

Question proposed: That clause 28 stand part of the Bill.

Sen. Al-Rawi: Sure, just pointing out that in Schedule 4 we need to affect the definition of precursor chemicals at the very least and I am not sure what else. I did not look to the consequential amendments for the SSA Act in light of the removal of some of the provisions of that Act into this Unit itself.

Question put and agreed to.

Clause 28 ordered to stand part of the Bill.

Madam Chairman: We will now go to clause 7.

Sen. Nicholas: With your indulgence, can we go back to clause 27 and just deal with the issue of offences?

Madam Chairman: Certainly.

Clause 27 recommitted.

Question again proposed: That clause 27 stand part of the Bill.

Sen. Nicholas: Madam Chair, it is proposed that an additional amendment to clause 27 to include clause 27(3) which states that:

"Regulations made under this Act may provide for offences and penalties."

Sen. Al-Rawi: And this is just a question. I am not sure whether one needs to prescribe a maximum amount. I think you do. I am not quite sure. You see I am looking at it in light of the statutory limitation in the Interpretation Act which says that you cannot bring an offence or penalty above $500 if you do not prescribe otherwise in the parent Act. So that is a specific term in section 16 of the Interpretation Act.

So unless you specify a maximum now—so you can prescribe offences and penalties which attract a maximum amount of X. So you want to give yourself some room to legislate as you may see fit.

Sen. Nicholas: So a maximum of $10,000.

Parliamentary Counsel: Penalties to a maximum of $10,000.

Sen. Al-Rawi: And just remember that you are dealing with a multimillion/multibillion dollar business, eh, so you might want to go a little higher than $10,000. [*Crosstalk*] You could put $20,000 or something minimum or somewhere there. Because you may have per diem offences you could run to, eh.

Sen. Nicholas: The sum of $1 million.

Sen. Al-Rawi: Of?

Sen. Nicholas: One million dollars.

Sen. Al-Rawi: I think that might be a bit high for subsidiary legislation. May I humbly suggest, at least as a starting point that you go for about $50,000. And I am saying that in light of the securities legislation or some other legislation that we have done which are big industry legislation points because you can also put daily fines as we do in the Companies Regulations for instance. [*Crosstal*k]

Sen. Nicholas: They are happy with $50,000.

Sen. Al-Rawi: Okay.

Madam Chairman: Could you read your amendment please.

Sen. Nicholas: "Regulations made under this Act may provide for offences and penalties to a maximum of fifty thousand dollars."—please Madam.

Madam Chairman: Clause 27 be amended as follows:

Insert the following new subclauses:

"(2) Regulations made under this Act shall be subject to negative resolution of Parliament.

(3) Regulations made under this Act may provide for offences and penalties to a maximum of fifty thousand dollars."

Question put and agreed to.

Clause 27, as amended, again ordered to stand part of the Bill.

7.40 p.m.

Clause 7.

Question proposed: That clause 7 stand part of the Bill

Sen. Nicholas: It is proposed that clause 7 be amended:

A. In paragraph (j), after the words "substances;" delete the word "and"

B. In paragraph (k), delete the "." and substitute the words "; and".

C. Insert new sub-paragraph (l):

"(l) do all such things as are incidental or conducive to the purposes of the Act."

Madam Chairman: Any other?

Question put and agreed to.

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

Clause 15.

Question proposed: That clause 15 stand part of the Bill.

Sen. Nicholas: Madam Chair, it is proposed the following amendment be made after subclause (2).

Inserting: "Every police officer executing any"—

Madam Chairman: There was an initial recommendation to delete subclause (1)(d)?

Sen. Nicholas: Yes, that has been deleted. That stands.

Sen. Nicholas: These are further amendments.

Madam Chairman: Okay. So we are doing a further amendment in subclause (2)?

Sen. Nicholas: Inserting after subclause (2)—well, to the end of subclause (2): "Every police officer"—

Madam Chairman: That is after the word "law"?

Sen. Nicholas: After the word "law". So we will be inserting a new subclause (3):

"Every police officer executing any warrant issued under section 15(2)—or customs officer"—

Sen. Vieira: Hon. Attorney General, I am just wondering if it might not be better to put those new subclauses after (h) so you would just have to renumber (4) and (5). Because if you look at (3), (3) flows from (2). It is just a suggestion.

Sen. Al-Rawi: "officer" in (3) refers to the designated officer, and then the police officer and the customs officer; so (1) and (2). So I guess once it applies to the designated officer as well, which is the production of identification, et cetera, well, then, it may probably be architecturally best, as Sen. Vieira suggests, after (h).

Sen. Nicholas: Well, it is Sen. Vieira's amendments. [*Laughter*]

Sen. Al-Rawi: In line with mine as well, yes.

Sen. Nicholas: So we are creating an (i)?

Sen. Vieira: No, no. This would now be (4), (5) and then you would have (6) and (7).

Sen. Al-Rawi: So insert after (3) (h).

Sen. Vieira: Because you will also be reporting on all the things done under (3).

Sen. Nicholas: It is suggested that because we are dealing with the whole issue of the warrant, and the warrant is dealt with in subsection (2), that we deal with it immediately after subsection (2).

Sen. Al-Rawi: You have a warrant in subsection (1) as well, for the designated officers. So there are two types of warrants.

Sen. Nicholas: Exactly. So that we deal with the warrants in subsections (1) and (2) and then specify what is to be done with regard to entry with warrants, and then we deal with the others.

Sen. Al-Rawi: Sure. It could work there as well too.

Sen. Vieira: If the draftsmen prefer it this way, I am fine with it. It is just, as Sen. Al-Rawi said, the architecture of it, how it flows.

Sen. Nicholas: I think in this case it has a better foundation as (3) and (4) as opposed to (4) and (5).

Sen. Al-Rawi: Sure.

Sen. Nicholas: So Madam Chair, we propose the new subclause (3) as follows:

"(3) Every police officer, customs officer or designated officer executing any warrant issued under subsections (1) or (2) shall—

(a) have the warrant with him; and

(b) produce the warrant on initial entry, and if requested at any subsequent time."

Sen. Al-Rawi: So perhaps you could say in the same language as you did in the original (3): "An officer may", and this is exercise of functions under (1) and (2).

Sen. Nicholas: A new subclause (4)—

Madam Chairman: New?

Sen. Al-Rawi: Or renumber (3) as (4).

Sen. Nicholas: New (4)—inserting (4).

"Every police officer, customs officer or designated officer who executes a warrant issued under subsection (1) or (2) shall, not later than seven days after the seizure of anything under that warrant give to the owner of or person claiming an interest in the thing or owner or occupier of the place or thing searched a written notice specifyingthe—

(a) date and time of the execution of the warrant;

(b) identity of the person who executed the warrant; and

(c) things seized under the warrant."

7.55 p.m.

Madam Chairman: Do you want to put the words "written notice" after "give"? Written notice to the owner, occupier, et cetera?

Sen. Nicholas: Yes, yes, Madam Chair.

Sen. Al-Rawi: It should be "to the owner or person claiming an interest in the things seized or owner or occupier of the place". Look at "owner or person claiming an interest in the thing or owner and occupier of the place", because "thing" and "place" must be separate. So it is just to add in the "person claiming an interest in".

Sen. Nicholas: Okay, let us try it. I shall read it again, Madam Chair, from the top.

"Every police officer, customs officer or designated officer who executes a warrant issued under subsections (1) or (2) shall not later than seven days after the seizure of anything under that warrant give to the"—[*Interruption*]

Madam Chairman: Give written notice.

Sen. Nicholas: "Written notice", we will bring to the end—[*Interruption*]

Sen. Al-Rawi: It is right there. You have "written notice to".

Sen. Nicholas:—"owner or person claiming an interest in the thing or owner or occupier of the place or thing searched a written notice specifying"—[*Interruption*]

Madam Chairman: You need to go a little slower, please.

Sen. Nicholas: Sorry, Madam Chair.

Madam Chairman: After "give".

Sen. Nicholas: "...give to the owner or person claiming an interest in the thing or the owner or occupier of the place or thing searched a written notice specifying the—

(a) date and time of the execution of the warrant;

(b) identity of the person who executed the warrant; and

(c) things seized under the warrant."

Madam Chairman: Thing? Things?

Sen. Al-Rawi: AG, should it not be specifying description of things seized?

Sen. Nicholas: Would you read it back?

Madam Chairman: "Every police officer, customs officer or designated officer who executes a warrant issued under subsections (1) or (2) shall not later than seven days after the seizure of anything under that warrant give to the owner or persons claiming an interest in the thing or the owner or occupier of the place or thing searched a written notice specifying the—

(a) date and time of execution of the warrant;

(b) identity of the person who executed the warrant;

(c) things seized under the warrant."

Sen. Al-Rawi: Save for one amendment.

Sen. Nicholas: Just after the first "owner" we want to put:

"give to the owner of or person claiming an interest in".

Sen. Al-Rawi: And, Madam Chair, instead of "subclauses (1) and (2)", "(1) or (2)".

Madam Chairman: Is that it?

Sen. Nicholas: Yes, please.

Sen. Al-Rawi: And then there is the consequential amendment of renumbering the other clauses.

Madam Chairman: So (3) becomes (5). The question is that clause 15, be amended, as circulated, and further amended by inserting after subclause (2) a new subclause (3):

"Every police officer, customs officer or designated officer executing any warrant issued under subsections (1) or (2) shall—

(a) have the warrant with him; and

(b) produce it on initial entry, and if requested at any subsequent time."

Parliamentary Counsel: "Produce the warrant" is better than saying "produce it".

Sen. Al-Rawi: Yes, "produce the warrant" as opposed to "it".

Madam Chairman: So (b):

"produce the warrant on initial entry, and if requested at any subsequent time."

Inserting new subclause (4):

"Every police officer, customs officer or designated officer who executes a warrant issued under subsections (1) or (2) shall not later than seven days after the seizure of anything under that warrant give to the owner of or persons claiming an interest in the thing or the owner or occupier of the place or thing searched a written notice specifying the—

(a) date and time of execution of the warrant;

(b) identity of the person who executed the warrant; and

(c) things seized under the warrant."

All right, let me read that again. So that should read:

"…written notice specifying the—

(a) date and time of execution of the warrant."

Sen. Vieira: Semi colon.

Madam Chairman: Semi colon?

Sen. Vieira: Yes.

Madam Chairman: "(b) identify of the person who executed the warrant;"

Sen. Vieira: And.

Madam Chairman: "and

(c) things seized under the warrant."

Sen. Vieira: That is right.

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Sen. Vieira: Hon. Attorney General, there is a subsequent amendment. If you go back to clause 18, we will now have to renumber what was 15(3) to read 15(5).

Sen. Al-Rawi: That is right, consequential amendment.

Sen. Vieira: That is the only other mopping up I saw.

Sen. Nicholas: Thank you.

Madam Chairman: Recalling also, that we would have to renumber in clause 15, and with respect to the consequential renumbering with respect to clause 18.

Schedule 1 ordered to stand part of the Bill.

Schedule 2.

Question proposed: That Schedule 2 stand part of the Bill.

Sen. Nicholas: Madam Chair, amendments proposed as circulated:

A. In item 2, delete after the words "trade and use of", the words "precursor chemicals" and substitute the words "specified chemical substances".

B. In item 3, delete after the words "supply, etc., or", the words "precursor chemicals" and substitute the words "specified chemical substances".

Sen. Al-Rawi: Could I just ask a question. Sorry, Madam Chair. On Schedule 1, I had noticed that we use the abbreviations HS Number and CAS Number, is it not usual to say what HS Number and CAS Number mean as a footnote to the legislation?

Madam Chairman: But it is in the bracket, is it not?

Sen. Al-Rawi: No, at the head of the table, Schedule 1: Specified Chemical Substances is Chemical column one, HS Number column two and CAS Number column three. Is it at Schedule 3—[*Interruption*]

Sen. Nicholas: It is spelt out in Schedule 2.

Sen. Al-Rawi:—page 25? Under what, sorry? [*Crosstalk*]

Sen. Nicholas: 22(1).

Sen. Al-Rawi: Okay, great. And then under Schedule 2, 3.:

"Company(ies) engaged in the licit manufacture and supply etc.,…precursor chemicals".

Is that correct? Is it meant to be lawful?

Sen. Nicholas: It is a typo. It was meant to be illicit.

Sen. Al-Rawi: It was meant to be illicit? I was not sure.

Sen. Vieira: The treaty talks about illicit, the Act talks about illicit, and illicit is the language with all the precursor—

Sen. Al-Rawi: Yes. So I just wanted to make sure that it is lawful we are talking about.

Company(ies) engaged in the lawful manufacturing supply, etc.,…precursor chemicals.

Sen. Nicholas: It is licit.

Sen. Al-Rawi: Right, so it is licit. Just being sure that it was not a typo.

Question put and agreed to.

Schedule 2, as amended, ordered to stand part of the Bill.

Schedule 3 ordered to part stand of the Bill.

8.10 p.m.

Schedule 4.

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

Sen. Nicholas: As amended as circulated and as further amended by:

"Insert after item 1, the following new item 2:

The Strategic Services Agency"—

Sen. Al-Rawi: That should be 4 instead because it is going alphabetically. So 1 is Dangerous Drugs, D; 2 is Food and Drugs, F; 3 is Pesticides and Toxic Chemicals, P; and 4 should be SSA.

Sen. Nicholas: As per chapter number.

Sen. Al-Rawi: I see. Well, it is purely coincidental, then, wow. I see. Thank you.

Sen. Nicholas: So:

"The Strategic Services Agency Act is amended…"

Madam Chairman: You are inserting after item 1?

Sen. Al-Rawi: A new subclause (2).

Sen. Nicholas: A new (2):

"The Strategic Services Agency Act is amended in section (2) by deleting the definition of "precursor chemicals" and substituting the following definition:

"precursor chemical" means any substances which—"

Sen. Al-Rawi: Do you want to do it by reference or you wanted to maintain the same thing because you could—or you could do it by reference to this Act? [*Crosstalk with CPC*] In the earlier legislation? Understood, no problems. Sure. Well then, we are reading from the definition as contained in this Act.

Madam Chairman: "…the following definition:

"precursor chemical" means…"

Sen. Nicholas: "(a) can be used in any of the chemical processes involved…"

Sen. Al-Rawi: It is the same as to be found on page 5 of the Bill, Madam Chair. Same definition.

Sen. G. Singh: You want to read it for purposes of the record.

Sen. Al-Rawi: Understood.

Sen. Nicholas: "in the manufacture of narcotic drugs, psychotropic substances or other drugs or substances having a similar effect; and

(b) incorporates its molecular structure into the final product making it essential for chemical processes referred to in paragraph (a)."

Madam Chairman: So how is it different?

Sen. Al-Rawi: It is the same. But because one is earlier legislation, they are putting it into the body of the earlier legislation, so it is the same. Exactly, for harmony.

Sen. Nicholas: Harmony and the consequential renumbering. [*Laughter*]

Madam Chairman: So the question is that Schedule 4 be amended as circulated and further amended as follows by:

A. Insert after item 1, the following new item 2:

"Strategic Services Agency Act amended	(2) The Strategic Services Agency Act is amended in section (2) by deleting the definition of "precursor chemicals" and substituting the following definition: "precursor chemical" means any substances which-— (a) can be used in any of the chemical processes involved in the manufacture of narcotic drugs, psychotropic substances or other drugs or substances having a similar effect; and (b) incorporates its molecular structure into the final product making it essential for chemical processes referred to in paragraph (a)."

B. Insert after item 3 the following new item:

"Customs Act amended Chap. 78:01

4. The Customs Act is amended in section 279 as follows:

(a) in paragraph (b) by deleting after the words "enforcement of standards;" the word "and";

(b) in paragraph (c) by deleting the full stop after the words "business facilitation" and substituting the words "; and"; and

(c) by inserting after paragraph (c) the following new paragraph:

(d) the Director of the Strategic Services Agency.".

Question put and agreed to.

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

Preamble approved.

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

Senate resumed.

Bill reported, with amendment.

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

Sen. G. Singh: Division.

The Senate voted: Ayes 26

AYES

Singh, Hon. G.

Coudray, Hon. M.

Nicholas, Hon. G.

Howai, Hon. L.

Alfonso, Hon. Brig. C.

Hadeed, Hon. G.

Newallo-Hosein, Hon. C.

Karim, Hon. F.

Sancho, Hon. B.
Tewarie, Hon. Dr. B.
Bharath, Hon. V.
Maharaj, Hon. D.
Mutema, Hon. K.
Ramnarine, Hon. K.
Scott, Miss A.
Al-Rawi, F.
Baldeo-Chadeesingh, Mrs. D.
Singh, A.
Drayton, Mrs. H.
Balgobin, Dr. R.
Wheeler, Dr. V.
Mahabir, Dr. D.
Vieira, A.
Small, D.
Abdul-Mohan, Rev. J.
Singh, Dr. K.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you. Madam President, I want to congratulate you on the manner in which you efficiently took care of all the amendments. [*Desk thumping*] I also want to take the opportunity to congratulate my colleague, Sen. The Hon. Kwasi Mutema, on the celebration of the 45th Anniversary of the Black Power Revolution, April 21, 1970. [*Desk thumping*]

It is in this context, I beg to move that this Senate do now adjourn to Tuesday, April 28 at 1.30 p.m., when we will continue debate on the Private Members' Motion brought by Sen. Dr. Victor Wheeler.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.23 p.m.