SENATE

Tuesday, May 19, 2015

The Senate met at 10.30 a.m.

PRAYERS

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

SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received from His Excellency the President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T.:

"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. KEITHA SMITH

WHEREAS Senator Raziah Ahmed is incapable of performing her duties as a Senator by reason of her 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, KEITHA SMITH, to be temporarily a member of the Senate with effect from 19th May, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Raziah Ahmed.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 18th day of May, 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 Ian Roach 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 19th May, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Ian Roach.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 18th day of May, 2015."

OATH OF ALLEGIANCE

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

PAPERS LAID

1. Annual Audited Financial Statements of the National Entrepreneurship Development Company Limited for the financial year ended September 30, 2011. [*The Minister of Finance and the Economy* (*Sen. The Hon. Larry Howai*)]
2. Annual Audited Financial Statements of the National Entrepreneurship Development Company Limited for the financial year ended September 30, 2012. (*Sen. The Hon. L. Howai*)
3. Annual Audited Financial Statements of the Police Complaints Authority for the period December 29, 2010 to September 30, 2011. [*The Minister of the Environment and Water Resources* (*Sen. The Hon. Ganga Singh*)
4. Annual Audited Financial Statements of the Police Complaints Authority for the year ended September 30, 2012. [*Sen. The Hon. G. Singh*]
5. Annual Audited Financial Statements of the Police Complaints Authority for the year ended September 30, 2013. [*Sen. The Hon. G. Singh*]
6. The Metrology (Quantities of Goods) Regulations, 2015. [*Sen. The Hon. G. Singh*]

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

[Third Day]

Order read for resuming adjourned debate on question [April 21, 2015]:

That the Bill be now read a second time.

Question again proposed.

Mr. Vice-President: On the last occasion the Minister of Transport was responding. He spoke for four minutes and has 41 minutes of his original speaking time remaining. The Minister of Transport.

Hon. S. Cadiz: Thank you, Mr. Vice-President. Again, I just want to say it is always an honour to be here at this House and, of course, in the winding-up of this very, very important Bill for Trinidad and Tobago, the Motor Vehicles Authority Bill, and more and more as we sat here and listened to the contributions of the Senators contributing, more and more we realize how critical this Bill is, more and more we understand the importance of an overhaul of the motor vehicle licensing procedures, et cetera.

We looked at, I think for the first time, a Bill where we take into consideration so many aspects of life and how people operate now as against what was happening in the '50s when the Licensing Authority was actually opened. So, a lot has happened over decades, and I think this Bill really and truly brings into focus where Trinidad and Tobago is supposed to be in 2015. Obviously, the Bill that is being presented, there have been concerns over some of the matters and clauses in the Bill, and I just want to say on the outset that Government has in fact taken in all the concerns and considerations and recommendations of the hon. Senators, to make sure that when we complete our presentation that we have a fully workable, operational piece of legislation that really and truly suits where we are today in 2015, and of course beyond.

A number of areas that were touched on, and I would like to deal with firstly, the areas concerning the persons with disabilities. And, again, many Senators spoke on the various clauses and we have obviously looked at it very, very closely, and a number of areas that came up that are actually in the current Bill, and some of the areas of concern are actually dealt with by other pieces of legislation. Sen. K. Singh, and I see Sen. K. Singh is back with us today, and he related horror stories, and I think that many of us who, I would not say have an opportunity, but who were maybe forced to go to the licensing office, as we know it, many returned with horror stories, even though just yesterday I received a text

from somebody that I knew, who said, Minister congratulations, St. James was a breeze.

So, there are instances where people actually go into a licensing office and come out absolutely amazed that they were able to transact their business in 15/20 minutes, even with the old, manual, archaic system that we currently operate. But, to deal with some of the issues that Sen. K. Singh—for instance, we have tried to remove all references that might be deemed to be discriminatory for persons with disabilities. For instance, right now, Mr. Vice-President, if you have a vehicle that has been licensed for a person with disabilities, at the back of that vehicle is big and bold. "No hand signals", and that immediately tells drivers, the person driving this particular vehicle is a person who has some form of disability. And, of course, I would say it is wrong to have that, to be able to identify persons with disabilities, because persons with disabilities are persons like all of us, and therefore, in the regulations that would be removed, so there will be no identifying marks on a vehicle as we have now.

So, something as simple as that and yet still a major stride in equality. Of course, when it comes to the parking permits—now, for those again, for those of us who have travelled into more developed countries you will see areas earmarked in particular for persons driving with disabilities, and they use a simple parking hanger, just like what we have for the Members of Parliament, a parking hanger. That parking hanger is going to be issued to the person. It is not a vehicle parking hanger, because the person might be using another vehicle on that day; they might not even own a vehicle, but use, for instance, a taxi or some other mode of transport to get around. And, therefore, it is the person who is going to have the parking hanger.

10.45 a.m.

Now, Sen. Singh asked about the issue of the marked vehicles. And what we are saying is, a person may request a number plate because the new number plates will come in many different ways, different configurations. If it is that the person would prefer to have the registration plate on the vehicle identifying the owner of the vehicle as a person with disabilities for whatever reason, it is entirely up to them, that is a choice. So they can have that or they can have just a regular registration plate that does not identify in any which way that the person operating this vehicle is a person with disabilities.

So we deal with simple changes like that. The issue of the new vehicle technology, again, we are not going to be steeped in levers and steam driven things and what have you; whatever is the going technology for operating a

vehicle by a person with disabilities will be the acceptable norm. So whether it is hydraulic or whether it is air, whether it is—whatever the technology is we will accept that.

The issue of driving permits for persons with disabilities, if it is that there is a permanent disability and a medical certificate identifies that, there is no discrimination. You will get your five-year permit as everybody else gets a five-year permit up until you are age 70, then like everybody else we then go for, I think, a two-year renewal on your driving permit. But up until age 70, a person with permanent disabilities, as identified by a medical practitioner, will operate as normal. Those who have a temporary disability through an accident or whatever or a degenerative position with a disability, then they will have to come on an annual basis to determine that you are still able to operate a vehicle. So we have, again, a number of changes there and again, the amendments to the Bill will, if not circulated already, be about to be circulated.

The issue of the Town and Country Regulations, Town and Country Planning Act, Chap. 35:01:

Notice of grant of outline planning permission to develop land.

In this, they go into detail as to what is going to be required.

Under clause 7(3), I would not go into detail, but it speaks about the location and structural details of facilities to permit wheelchair access to and from the proposed building must be shown. And it goes into the grade required, et cetera, et cetera. So that is all part and parcel of the Town and Country Regulations, and then, of course, it goes and speaks further down to additional issues regarding persons with disabilities, as far as the parking spaces, et cetera, okay.

Now, I have not checked to ensure that the width, for instance, of these parking spaces, 3.5 metres wide, I would assume that that would be the norm and international standard, because if you have to exit a vehicle and get into a wheelchair you need a very, very, wide opening, you cannot, as you say, "small-up" and try and get through the door. So you will require a full access to the vehicle. So I am pretty sure that the spaces here that we are talking about do in fact, meet international standards. And then, of course, it goes into issues of washrooms, lunchrooms, doorways, corridors, capable of accommodating wheelchair users, et cetera.

So the Government has, in fact, outside of the MVA—

Sen. Robinson-Regis: Excuse me, Minister, sorry. Would you give way for just a question?

Hon. S. Cadiz: Sure.

Sen. Robinson-Regis: Thank you very much. I just wanted to find out what are you referring there to, is the Regulations. I am sorry, I am not understanding what you are referring to and if you could just explain. Thank you.

Hon. S. Cadiz: Just to back up one minute, Sen. Singh had asked about issues relating to persons with disabilities, the parking spaces and what have you, because it is not identified in the motor vehicles authority Act or Bill as we have it here, but it is in other legislation, and this is the Town and Country Planning Act, Chap. 35:01 entitled: Notice of grant of outline planning permission to develop land. So this is what I am referring to here.

So again it is recognizing that—I think the term that we would use is "mobility is independence" and for all persons, whatever type of disability, the Government recognizes that, and to be mobile in Trinidad you have to be able to access a vehicle, if not your own, other vehicles. So I move on. And then, of course, in the Bill it does speak about people violating the designated parking space, but there are fines in there.

I move on now to Dr. Mahabir. Sen. Dr. Mahabir had a number of comments and suggestions, recommendations.

Sen. Dr. Singh: Excuse, if you could give way, Minister.

Hon. S. Cadiz: Yeah.

Sen. Dr. Singh: One issue I did not hear, I assume that you have finished with the disabilities issues in the clauses. One thing I did not see addressed is the issue of a new driver with a disability being able to get a learner's permit, because it is much easier for somebody who was formerly a driver, was not disabled, who became disabled, to go and apply for their permit, all right?—because they do not have to go through the learning process or the regulations. But there is nothing in this law to allow a person with a disability who has never driven before, never had a licence before, to go for a learner's permit, and if only driving instructors are allowed to deal with learner drivers there needs to be something to allow for disabled persons to get access to the learner's permit.

Hon. S. Cadiz: As far as I understand it, there is no discrimination. So anybody going to a Motor Vehicles Authority facility to apply for a learning permit would be serviced as normal. I take the point that for persons with disabilities whether or not in the training—the certification of driving instructors, that a portion of that training would have to be able to deal with persons with

disabilities and that we can—as far as the certification course and what have you is concerned, we will definitely take that up.

There were a number of issues, as I said, from Sen. Dr. Mahabir in dealing with, for instance, issues of antique vehicles. I know we keep going back to Morris Oxford and I do not think this Parliament has ever heard so many references to Zephyr and Cortina, Morris Oxford and Prefect as we have had recently, which is a good thing. That was a great time Senator, that was a wonderful period in Trinidad and Tobago. One of them used to be called the "steel donkey", antique. [*Laughter*] Sen. Dr. Mahabir, you know, he commented on maybe the term "antique" is vague.

The term "antique" means a vehicle not less than 25 years old and that is the international standard. We originally went with 50 years and they figure well 50 years the vehicle might very well be a rust bucket. So maybe 25 years would be—let us accept 25 years, it is sort of a middle of the road for international standard. So 25 years we will deal with that. Issues of fleet insurance, if you are a collector, that is an issue for your insurance broker to be able to insure a fleet of vehicles, I guess, if that is what you would want.

A couple of other things—we have spent a lot of time dealing with the juvenile drivers, the novice driver, and there is a clause where after driving for six months a juvenile driver will go and do a refresher course. And what was felt is that—the other day I was driving on Wrightson Road at half-past six in the morning and there is this "L" plate going up the road on Wrightson Road, okay?—a very busy thoroughfare.

People who learn to drive in Trinidad typically drive on back roads and quiet areas, in areas where there are no houses or people, they go down to Chaguaramas or other places to go and learn to drive. When you have to now drive from Port of Spain to San Fernando on the highway that is a totally different experience, totally different. You have no instructor next to you, this is the first time you are out and about. And what we felt was that for the juvenile drivers that we would bring you back in after a period and it would be a simple defensive driving course because we would have felt that after the first six months of driving you would have had an opportunity to drive to Maracas Bay, to drive to San Fernando, to drive on a three-lane highway, to drive at speed limits greater than what they have in the municipality, for instance in Port of Spain, and therefore it was felt that a little refresher course would go down well.

And I do not want to dwell on it, but I think Sunday morning at five o'clock in the morning there was this horrific accident with two young people, with one of

them being 17 years old, I believe, who was not the driver, was killed in the accident. And what we are saying is—and there is no blame being laid here at all—what I am saying is that we do feel that for young juvenile drivers, let us take a little more time with juvenile drivers than we do now where after five times, outings with a driving instructor, all of a sudden you feel you could drive a 300-horsepower vehicle at 120 miles per hour, even though that is not the speed limit, but that is what they would probably be driving at, and it just does not work.

So we are putting more emphasis on the juvenile drivers and throughout the—in the legislation you see where driving from, I think, midnight to five o'clock in the morning you need to have an adult driver accompany you even though you are still driving, we want that, we want more management for our young drivers, and we do feel by doing that you are going to start seeing over a period of time people being far more responsible when they are driving, and again, with issues of road safety and fatalities and what have you we should see a marked decrease.

Mr Vice-President, to date we have already seen a 17 per cent drop in fatalities over last year which saw, I think, somewhere about a 30 per cent drop. So over the last couple of years we have been seeing a definite decline in road fatalities and that [*Desk thumping*] is because of all the, whether it is cable barriers, whether it is more policing on the roads, whether it is a public safety awareness, whatever it is, the drunk-driving laws, seat belt laws, no mobile, using your mobile whilst driving laws, all of that adds value to what we are doing and with the juvenile driving changes that we are seeing here, we think that will further enhance the whole idea and concept of what the responsibilities are with a young driver.

Hon. Senator: Significant achievement.

Hon. S. Cadiz: Significant achievement. Another area that Sen. Dr. Mahabir was concerned about was the $5,000 fine for falsification by an enforcement officer. And that was a typo. It is actually $50,000. So we hope that a $50,000 fine will actually have somebody thinking twice before they try to fudge a certificate.

The issue of cars being assembled, that was a ticklish one for us. How do we deal with that? We know why that clause was there in the old law and at the end of the day what we are saying is that the Motor Vehicles Authority will license or certify a garage or an entity or a company to be able to assemble vehicles, because we felt that you could not restrict people from doing that, but it had to be done whereby the assembly of these vehicles was done in a particular way. For

instance, we would determine, for instance, things like welding and what have you, all of that will be dealt with. So you cannot just go and take two motor cars and cut them up into pieces, weld them back and put them back on the road. That will no longer be the case, so we hope with the amendments that you are seeing here that that would work.

Sen. Dr. Mahabir: Thank you, hon. Member, for giving way. I just wanted a point of clarification, and that is whether the statement in the Bill with respect to assembly prevents Trinidad and Tobago from having, in the future, an auto assembly industry as we had in the past. Thank you.

Hon. S. Cadiz: The simple answer would be no. There are two issues here. One would be a Ministry of Trade issue as far as allowing a business and to give duty-free concessions, et cetera, for instance, to a business like what we had many, many years ago. The MVA is concerned with the safety, the safety aspect of any vehicle rather than the manufacturing of vehicles. For instance, you could set up a manufacturing plant in Trinidad for only export. Nothing has to come on our roads. And therefore that would not be of concern to the MVA.

11.00 a.m.

One of the issues that was made reference to by many was the issue of the administration. This Motor Vehicles Authority administration, the board of directors, the appointment of the chairman, the appointment of the deputy chair, the CEO, et cetera—I know that Dr. Tewarie did, I think, an excellent job in going through how state organizations operate and how they have to be managed. Of course, we would again make reference to the term "Minister". The term "Minister" means the Cabinet, and I support Dr. Tewarie that where it is the Minister is going to be held responsible—because at the end of the day somebody has to be held responsible, and if it is that the Minister is going to be held responsible, then the Minister/Cabinet, or Cabinet/Minister, really and truly, should have some input into the selection of the people that he would expect to carry out government policy, and carry out the mandate of the particular organization, all within the guidelines, et cetera, of that particular organization or the Ministry of Finance and the Economy and what have you. Therefore, we felt that that would stay.

The composition, however, of the board, we have changed that, where we are suggesting that we have three persons out of the total would come from representatives of various organizations and, therefore, the Minister would not be determining that particular individual. So, for instance, we have where an organization that is supporting road safety, for instance, they would put up a name

as a recommendation to sit on the board. So the entire board is not by ministerial decree. You would have three members, and then we have changed the composition slightly. One of the terms was, I think, automotive engineering and it was felt, where do we get this cadre of automotive engineers in Trinidad? And therefore, we changed that to mechanical engineer, which is a similar discipline that we feel would work well there. So we have looked at that.

Immunity for board members, again, that is a standard practice. That is across the board with the immunity, and that immunity is for decisions being taken for the business of that particular organization. If there is fraud, or corruption, or anything, that is dealt with in other legislation.

The issue of borrowing, again, this is an organization—right now the licensing office takes approximately $160 million a year in fees and licences and what have you. We expect, without any increase—I want to say that. Without any increase at all in any of the fee structures that are presently being used, we should be able to increase that substantially. Therefore, the Motor Vehicles Authority will be an entity that will generate its own income, will be in a position to spend and expend funding in the services being provided. However, if there is a time where additional funding will be required to expand the services, or to add a whole new set of services, it is felt that if they had to negotiate a facility, they would do so, but, of course, under the ambit of the Ministry of Finance and the Economy which all state agencies and authorities fall under.

There were other references from Sen. Small about antique vehicles. Again, I think Sen. Dr. Mahabir could educate all of us on antique vehicles, but I think we have dealt with that. The issue of military vehicles—and, again, how many times have we heard our citizens complain about the driving habits of some persons who operate in the various defence force areas—and I see Sen. Small smiling. What we are saying here is that the commanding officer of the defence force has the authority to issue a regimental ID card which allows them to drive. That cannot be issued, however, unless there is a valid driving permit issued by the MVA, and in the amendments you will see it showing there.

So even though that was practised from year dot—it has always been the practice—it was never specifically identified as that. So we have dealt with that. So you will not have regiment officers careening around corners without the proper driving permit. At least, I hope with the new way of training drivers, et cetera, there will be no more careening.

The issue of personalized licence plates, again, if you want—whatever number you want; you are willing to pay for it, there will be a fee charged for

all—it is called "vanity plates" in other jurisdictions. In Trinidad, in the regulations you will see "personalized licence plates" and therefore, if you want that, if you are that vain and you want to have "Number One" as your licence plate, you could have it, but you pay for it. Also, too, if you are a cyclist; you are a fisherman; you are a cricketer, and you want that logo on your licence place, fine. We have absolutely no problem with that. It does not change the price of cocoa; it does not change the registration of the vehicle. If you like that, you could get it.

Hon. Senator: What about Ministers?

Hon. S. Cadiz: Ministers will not have been—[*Interruption*]

Hon. Senator: Every five years. [*Laughter*]

Hon. S. Cadiz: Every five years you have to get a new one.

The issue of seat belts and exemptions for special purpose vehicles, again, like ambulances, the Bill does speak to exemptions, and the Minister will sign those exemptions, and I know in some areas we will have to do that. But I just want to say that where so many different people were exempted from wearing seat belts prior to this Bill coming, that is no longer the case. Heavy T drivers, I could not figure out why a heavy T driver would not want to wear a belt. But they are exempted and there is no practical reason for that—so heavy T drivers, all drivers, only in special cases. And, again, if it is ambulance staff that have to work in the back of the ambulance, they will be exempted from that and others.

Odometer violations, that is fraud, and therefore if you go and you fiddle with the odometer and the Motor Vehicles Authority sees where you have disconnected, or in some way tampered with the odometer, you can be charged with fraud for that.

Banning of smoking in vehicles with children, I think it is laudable but, again, it was felt that your car is your personal property and, therefore, I am not too sure how we would actually police that. But I think through education, it is something that we could really and truly start dealing with. I mean, people do not smoke in enclosed areas. You cannot smoke in this Parliament building; you cannot smoke in a restaurant that is enclosed. Therefore, I think through education—for people to understand—we can deal with that.

I know there is some—we are a bit—[*Interruption*]

Hon. Senator: What about the smoking cars?

Hon. S. Cadiz: Slightly different to smoking in a car, but we are working

with the EMA to develop those regulations about what constitutes a car that is polluting, whether it is exhaust smoke, or whatever. So we are dealing with that, and also noise pollution. Noise pollution is a big issue. For instance, in the Maxi-Taxi Act it speaks about the issuing of a permit to operate a tape deck. I had my druthers about that. I say, they might go back to "ah eight track, at the rate we goin".

Sen. Vieira: Minister, while you are talking about the smoking, I tend to favour banning the smoking altogether. But could you make it an offence flicking a cigarette butt out of the window? Because they are causing a lot of bush fires and doing a lot of damage.

Hon. S. Cadiz: Sen. Vieira, I think that is already against—that is littering. Flipping a cigarette or a KFC box, whatever it is, that would be littering. But, again, that is education, and Trinidad and Tobago can change. If we can wear seat belts, we cannot drive DUI, those are amazing things to happen in Trinidad, and I do not see that we cannot, over a period of time, educate this population to stop doing these things, like filling your car with tobacco smoke when you have children in the car, especially.

Coming back to the—sorry, Senator.

Sen. Dr. Mahabir: Minister, thank you for giving way. I want to get back to the position on smoking in cars. The argument is that the car is private property, and it is. No one is disputing that. However, despite the fact that it is private property, the law says we are required to wear seat belts. So it is controlling private property insofar as it affects our own private safety and the safety of passengers. That is, I think, laudable in the public interest. We need to do that. But insofar as smoking in a confined space is also a serious health hazard, I am wondering whether the argument that is being raised that it is private property, is, in fact, tenable because we are simply saying that wherever there is an activity, private or public, that is injurious to the health and welfare of others, that has to be an illegal act. So I am simply asking whether, in fact, the problem is that we are interfering with private property and its use, or whether the Government has a policy that it is not yet defined with respect to smoking in various environments. Thank you.

Sen. Small: If you would permit me again and give way, Minister. I want to again, support—put my position on the table. I think that what I had mentioned was specifically with relation to children. And, Minister, we passed a Children's Authority Bill; we passed several bits and pieces of legislation to protect children, and I think that the science is proven. There is no question that smoking in a

vehicle with children—it is specific with children; adults can make their own decisions. But what I had asked for, for consideration, is smoking in a vehicle with children. There should be something in there for us to protect children. I understand the argument of personal property, but if in other places people have found ways to enact and made it illegal—and it is purely based on the science; it is the science, and at this stage I do not think we should be ignoring the facts of the situation. So I am not sure where we could go with it, Minister, but I wanted to reiterate my position, also to support Sen. Dr. Mahabir.

Hon. S. Cadiz: And I must say, Senators, that I do feel it is laudable. I mean, if we are going to deal with safety, it is not only about the driving conditions and seat belts and—[*Interruption*]

Hon. Senator: And cell phones.

Hon. S. Cadiz:—cell phones, and not driving under the influence, et cetera, but that was a curve ball that you bowled, with the smoking in vehicles, and I think, definitely, it would be under consideration. I am not too sure if we can do it with this—in law here, or whether or not it is something we can look at the—[*Interruption*] I think we will have to have a little more consultation. But I support you in what you are saying.

You know, one of the concerns, really and truly, was: can we actually make this MVA work? Coming from what we know of the licensing office and the current status of the licensing office and the level of service that is being provided, the whole idea of this MVA—this whole idea of this Motor Vehicles Authority—is to remove ourselves completely—go 180 degrees to where we are now. And even though I get little snippets about St. James working well and what have you, I do not take that as a norm. That is not the norm. Therefore, with the Motor Vehicles Authority coming on stream, there is going to be a whole new view—a whole new way of offering proper customer service, and that is the purpose. One of the main tenets of this Bill is to really and truly give us that opportunity, give us that room to be able to create a very workable, service-oriented Motor Vehicles Authority.

I mean, we have seen it work. I will tell you something. Trinidad is not alone, eh. When you hear the horror stories of the Department of Transport, for instance, in North America, you hear people saying when they go there, they have to go for psychiatric help afterwards. And, yet still, you go into other places—we have been, for instance, to the Nova Scotia model. We have seen what they do in Halifax and it is very much a service-oriented business, and that is what we are looking to emulate here in Trinidad and Tobago.

A couple of the other things—I will deal with Sen. Baldeo-Chadeesingh who made a statement: "A new name will not bring change". Well, "ah doh" know if Sen. Baldeo-Chadeesingh was working on recent experiences, but what I would say, in this particular case it is not a new name. This is not changing the sign on the Licensing Authority. That is not what this is about. This is a completely new way of doing business and I do feel—and I really would like this House to support this Bill in taking the bull by the horns and really and truly making major, major changes to how we do business when it comes to vehicles.

I just want to—in supporting my Cabinet colleague, Sen. Karim, about the role that tertiary education is going to play in dealing with the training, and not only necessarily the training of the driving instructors. For instance, as Sen. Singh remarked, what happens when a 17-year-old person with disabilities arrives at the Motor Vehicles Authority, how is that person going to be dealt with? People have to understand, and that is where all the customer training comes into play, but when it comes to the driving instructors—and again, this is where the 180 degrees start to happen.

11.15 a.m.

Anybody in this Senate who has a driving permit for more than, I believe, five years can be a driving instructor. Regardless of how terrible a driver you are, you can still be a driving instructor and that is a major change. If we take it from the first time a person looks to go behind a wheel and we start that training from there—we are talking to the Ministry of Education. Can we actually bring driver education into secondary schools? When you sit your final exams in May, I believe, somewhere around there, May/June, you still have a couple weeks before schools close, can we take those couple weeks and have proper driver education programmes operating in secondary schools? Can we actually bring driver education into primary schools, where you start that education? If we can give laptops to 11-year-old, 12-year-old children, then there is no reason why we cannot. Even the laptops could have a driver app on it to start the education. So we are looking at a complete overhaul of the system, Senators.

The issue of Motor Vehicles Authority officers and what their role will be, and whether or not they should actually be able to carry out breathalyser tests and what have you, it was felt that with the new Authority coming on stream that the MVA officer, really and truly, should be concentrating and dealing with direct issues of the MVA.

There is enough work there for those motor vehicle officers to be doing that, rather than to be doing some of the work that the police are already doing. So it

was felt that let the police do their work with the traffic violations and breathalyser, et cetera, et cetera, and the Motor Vehicles Authority officers would concentrate on their core business of vehicle management—hence the reason that we opted to not have them be authorized to do breathalyser tests.

That is a whole other thing now that will have to happen as far as equipment and training, et cetera, et cetera, which will take away from their regular work. What is their regular work? Their work is going to be to manage the highways and roadways of Trinidad and Tobago.

The two containers that flipped in downtown Port of Spain, were those containers authorized to go in to the municipality? Were they authorized? Where were the licensing officers to deal with that? How many times do we see containers parked up on Henry Street, Charlotte Street and Frederick Street: 40-foot containers being parked up there, blocking traffic and what have you?

I live in the back of Maraval; going up Saddle Road sometimes you see this container taking an hour to go up. Is that right? That is where the road management has to come in, and I fully support the fact that let them do what their core business is rather than going all over the place. I know it is traditional. It has already been there for many years, but that does not say that we do not change it.

Issues of pedestrians and jaywalking, et cetera. Again, all of that comes in with primary school education and education in secondary schools, how to walk on a road. They say a Trinbagonian could never walk across a road straight. Never! He will always walk diagonally. It is impossible for them to walk in the shortest way from A to B. They will go from A to Z. That is how they walk across the road.

So again, that is a cultural thing, that is an education, and I think to put in fines and what have you; policemen stopping to see a fella walking diagonally rather than walking straight, I think education will change the way in which we do business: look left, look right, look left again. When last did you hear your children say that is what they are teaching them in schools? All of that has gone out and we look to bring that back.

In other areas, pillion riders, also known as towing—I mean, I used to have an all steel Raleigh bicycle and I used to tow in the yard and on our street, but I could not tow from Arima Boys' RC back home because it was against the law to tow. That was when you had to pay 25 cents to go and buy your bicycle licence and a clerk writing out a big receipt for you and giving you your little enamel

plaque that you had to bolt on to the bike for 25 cents. Okay, we do not do that again. Why is towing against the law? Do not tell me it was a major safety issue. We are not towing on the highway because bicycles are not allowed on the highway. So simple things like that we would want to remove so we could all tow to our hearts content if it is that we pass this legislation.

Hon. Senator: Butch Cassidy and the Sundance kid. [*Laughter*]

Hon. S. Cadiz: Butch Cassidy and the Sundance Kid, somebody mentioned that. The issue of instructors, and Sen. Vieira, my mother taught me to drive in a Zephyr 6, but—[*Interruption*]

Mr. President: Hon. Senators, the speaking time of the hon. Minister has expired.

Motion made: That the hon. Minister's speaking time be extended by 15 minutes. [*Hon. G. Singh*]

Question put and agreed to.

Hon. S. Cadiz: Thank you, Mr. Vice-President. Senators, thank you very much. The issue of being taught how to drive a vehicle, again those were the days when maybe it was okay, the volume of traffic, the speed, how Trinidad and Tobago operated then. We did not have fast food in those days.

So the society has changed and it is felt that if we are going to be operating again a 2,000 pound vehicle with 300 horsepower under the hood, you need to be properly taught how to operate this vehicle, and therefore, as much—I am not saying that a parent cannot teach their child how to drive. If you could find a place you could do that, but when you are going for your licence you would have to be properly certified because your mother or your father, or elder brother or sister or aunt, might not be able to certify you.

Therefore, it is felt that we need to bring some structure into the system and, therefore, feel free for parents to teach their children how to back up and park and what have you. In order to get a little drive I used to have to wash the car. So if you wash the car you could get a "lil tush" around the yard with the car. And again, those are good things. It is a good family unit to have that, but in this case we would very much want the driving instructors to be certified.

Moving a vehicle. I know there was mention about what happens when you are moving a vehicle in front of your yard. The way the legislation was written was that if they found you operating a lever inside the vehicle—and again, I think operating a lever probably went in the 1951 amendment. The fact of the matter is

that if somebody is caught in your vehicle, whether moving a lever or not moving a lever—and, of course, we have removed that—they can in fact be charged for attempted theft and what have you, but you are not going to be able to—

What we would want is that if a vehicle is badly parked in front of your yard, blocking your driveway for instance, that there is a process. If they call the police, the police will send a wrecker to remove the badly parked vehicle, et cetera, and therefore, we think that will suffice, but when it comes to the term moving levers and operating switches and setting starters we did not think that that was necessary. If somebody is in your car, it means that they are there illegally. Whether they are going to bounce the starter they say, move a lever, or to just sit in your car, they are there illegally and they will be dealt with.

On issues moving from the—sorry.

Sen. Vieira: Thank you, Minister. My concern was that the way the law was couched in the Bill is that you could move it if it is blocking your vehicle. It was not about the levers. And as with regard to the parent, my concern was that the way the law read at first instance, it looked as though teaching a child or a ward to drive was an offence, and what I was saying is that it needs to be made clear. Yes, you need to have a driving instructor to pass the driving test and to be assured that you had proper training, but there needed some tweaking in the law because it seemed, if you did not already drill through the legislation, that teaching your child to drive might have been an offence. Now it does not say that, but it could have given that impression.

Hon. S. Cadiz: I do not think that is what we meant. What we are looking at is when you actually go to get the permit issued that you have had a certified instructor. So your parents can still drive you around. On the issue of the moving of the vehicle, I think when we get to committee stage we will look at that.

Paper-based system. Of course, it is everybody's wish not to see a piece of paper or a Bic pen in life again. How fast can we get to that? Fairly fast, I think. You are going to still have to create a form, an application, and as we move along that will be done online rather than you having to write out this thing and then they have to go and transcribe it into—I mean, I was horrified going down to the licensing office the first time to see how many times an engine number is transcribed. I think it is about three, four, five times. The same information is moved from ledger to ledger to ledger to ledger.

So once we take the DNA, for instance, of the vehicle at the port, that is into the data system and that information will be lifted for whatever reason, from

Customs and Excise to the Motor Vehicles Authority, et cetera, et cetera, and therefore, you will no longer have to be transcribing all of this information. Once the data is there, it is good to go.

So we are looking, in fact, at removing the paper out of the system and, of course, no paper, no writing down. Again, the issue of falsifying documentation, and what have you, that tends to disappear because there is no room for changing numbers, et cetera, unless you have the proper access and what have you. One comment was the fear of paying bribes and what have you, and again I am not going to go back into that. We know what the licensing office is now and this Bill and the new Motor Vehicles Authority will deal with all of that, eliminate the issue of corruption. There is no reason to pay because within 15/20 minutes for whatever transactions you go for in the MVA, that is the time you will be spending there.

So when you walk away from a counter now with your head down, shaking your head like the whole world fell on the top of you, and a fella ask you, "Boss, ah could help yuh?" And you only make the mistake and say, "Chief, dey tell meh six months before ah could get meh heavy T", dey say, "Dat is not ah problem. Six months is no longer de issue. I could help yuh out", and that is what happens now. So if you go into the licensing, the Motor Vehicles Authority, and you go to the counter, I have come here for my heavy T, "brip-brap" in minutes you get sorted out, then there is no reason. You walk with your head high and say, "Look, I now get through".

You do not have to walk with your head down complaining about the length of time it is going to take. So we eliminate all of that, we create the efficiencies, we remove the paper from the system and that will tend to eliminate all corruption and fraud in the licensing office.

The crash investigative unit, as I mentioned when I was starting the wind-up, that is something that we are looking at very, very seriously, and again not only for vehicle, but for vehicle, air and marine. Trinidad and Tobago needs to have a unit that could actually invest especially where there are fatalities, whether it is a boating accident, or a vehicle accident, or air, that we should have that capability as least to do preliminary work. It is something that we are looking at now. Where that will be housed, again, that is debatable.

The issue of child safety. That was a major concern and I think we are all, more or less, in agreement with the issue of when it comes to child safety and all passengers belted in a vehicle, children below the age of seven in proper certified child seats. So again, the issue of children flying through the windshield and

windows and what have you—I think Sen. Small made reference to something that happened to him a number of years ago and we hope we will be able to get rid of all of that by having it in the legislation.

So, Mr. Vice-President, I think that the Motor Vehicles Authority Bill before us, I think it is a good Bill and when we go to committee stage there is some tweaking, there are amendments that we have and we will continue to listen.

11.30 a.m.

But I do feel that all in all, this is a good solid piece of legislation that would go a very, very long way into changing the way in which we do business in Trinidad and Tobago when it comes to vehicles and vehicle operation. I think it is going to be dealing with, in a very real sense, the issue of road safety; we are dealing with, in a very real sense, management of our roads in a much more meaningful way than where it is now.

I think all in all, we have taken into consideration the way in which we live, our culture in Trinidad and Tobago and therefore, we are not asking for Trinidadians and Tobagonians to change their whole life but what we are saying is with a little slightly more regulation and a little more management and administration, for something as critical as road safety, for instance, that I do hope that we get the full support of this House. Mr. Vice-President, I thank you. 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.

Mr. Chairman: There is a circulation from the Government pertaining to some of these amendments and it begins from 10 so therefore, I am asking the Senate to read them. It is 287 clauses. If it is to the approval of the Senators, could we go from 1 to 9? If there is any amendment within that period, then we will go and have it fleshed out and we take it in batches like that.

Sen. Prescott SC: Chairman, regrettably, I should like to make an observation in several of them.

Mr. Chairman: I said between 1 to—all right, okay, well then we will start at 3, let us go. Then we will see where it is possible that we could go if there are no concerns in those clauses.

Sen. Prescott SC: Clause 4 is the first of it.

Clauses 1 to 3.

Question proposed: That clauses 1 to 3 stand part of the Bill.

Sen. Prescott SC: May I? Would we be insisting that it be called the Motor Vehicles and Road Traffic Act, 2014 as opposed to 2015? I am not sure I am on sound ground here. Does it matter? Maybe you could look at it. Thank you.

Sen. Nicholas: If all your concerns are at that level, we are okay.

Mr. Chairman: My information is the Bill was introduced in the Lower House in 2014.

Sen. Nicholas: Yeah, so in that case, you cannot change it.

Mr. Chairman: The Act, when it is passed, then it becomes 2015, based on the Act.

Sen. Prescott SC: So then that would be acceptable to me.

Mr. Chairman: Thank you, Senator.

Question put and agreed to.

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

Clause 4.

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

Sen. Dr. Mahabir: I have something on the (a) part because there are many, many subjects in clause 4 and it refers to "antique vehicle". I would like for the Minister to consider an amendment to the definition because it says:

> "'antique vehicle' means a private motor vehicle or commercial vehicle, which is at least twenty-five years old;"

But that refers to age. You see what you are talking about is an old vehicle. I would much prefer if we continue, which is at least 25 years old and restored to close to its original condition or its original appearance. So that there has to be—to make a distinction between an old beat-up vehicle and one that is antique, there has to be an element of restoration to initial appearance. Is the Government willing to consider?

Hon. Cadiz: I would just like to say though that in other jurisdictions, it is very difficult to identify this antique—what is an antique to you and what is an

antique to me, and therefore, we found that the definition in nearly all the jurisdictions just dealt with age and they stopped it there. But I do not think that we would have any difficulty with your recommendation.

Sen. Dr. Mahabir: And we can be pioneers in Trinidad, Minister, and the reason is, on the Internet now, you can find an image of every single car that was produced since Daimler produced its first one in the 1890s. So that my position is, if we are to have really the antique vehicles being an important part of the tourism industry and the cultural traditions of Trinidad, we should encourage people to restore them to as close to its original position, and simply not have old vehicles passing off as antiques.

Sen. Nicholas: So what exactly is your amendment?

Sen. Dr. Mahabir: My amendment should read as follows—I am suggesting the following, we continue—we accept the age which is at least 25 years old and restored to close to its original appearance.

Hon. Cadiz: Yeah.

Sen. Prescott SC: May I say instead of "at least", let us say "not less than" so it is not left to be speculated?

Sen. Dr. Singh: Could I ask that we also include not just appearance but functionality of the vehicle, which I think is more important than the appearance?

Sen. Nicholas: Yes, in fact, I would suggest "condition" as opposed to "appearance".

Sen. Prescott SC: Hon. AG, Chairman, through you, may I suggest that we say "not less than 25" rather than "at least"? "At least" leads to speculation about this age. The person might be required to prove that it is not less than.

Sen. Nicholas: Not less than 25?

Sen. Prescott SC: Yes.

Hon. Cadiz: Rather than "at least".

Sen. Vieira: Hon. AG, I was wondering at the definition of "medical practitioner".

Sen. Nicholas: Let us finish with antique. Once we are clear—are we okay with antique? So '"antique vehicle' means a private motor vehicle or commercial vehicle which is not less than 25 years old and restored to its"—

Sen. Dr. Mahabir: "And restored to close. It cannot be to its original, eh.

Sen. Nicholas: "and restored to close to its original condition;"

Sen. Dr. Mahabir: Yes.

Sen. Prescott SC: Would your drafters consider saying something that approximates to its original condition?

Sen. Nicholas: I would prefer that wording. Sen. Prescott, could you read how you would read in to the approximate?

Sen. Prescott SC: And restored to a condition that approximates to its original condition. The purist might say "which", I say '"that".

Sen. Nicholas: Yes.

Mr. Chairman: So therefore it should read as follows that the:'"antique vehicle" means a private motor vehicle or commercial vehicle, which is not less than 25 years old and restored to a condition approximates"—

Sen. Dr. Mahabir: That approximates.

Mr. Chairman: That approximates to its original.

Sen. Nicholas: To its original condition.

Mr. Chairman: "to its original condition; "The question is that clause now—

Sen. Vieira: I had a couple.

Sen. Robinson-Regis: Sorry, colleague, before you go to "m"—[*Interruption*]

Sen. Vieira: I also had concerns about "hiring car", "hired vehicle", "chartered vehicle", "commercial vehicle", I find them all very confusing, and I noticed we have also dropped from the road traffic previous Act "goods vehicle" and I want to know whether that was dealt with. So before "m", I find car and vehicle seem to be used interchangeably and confusing.

Sen. Robinson-Regis: And could I before we even go to "h", which I also have concerns about, could I ask about the definition of "ambulance"? After "agricultural trailer" in clause 4.

"'ambulance' means a conveyance used to transport a patient in emergency conditions;"

But could I point out that there may be circumstances where a car is used to transport a patient and it does not become an ambulance. So I think we should have a more accurate description of what an "ambulance" is.

Sen. Nicholas: Do you have a suggestion?

Sen. Robinson-Regis: Well, I think it needs to indicate that it is a marked vehicle because even in this legislation, we talk about persons picking up persons who have been found in an accident and taking them to the nearest hospital and your car does not then become an ambulance. So I think we need to have a proper description of what an "ambulance" is. So it has to be marked and I think it also has to have signage.

Sen. Nicholas: Design.

Sen. Robinson-Regis: Yeah. I do not have a suggestion and if you have one, I would like to hear it.

Sen. Nicholas: I would like to suggest—it means a marked vehicle designed for the conveyance.

11.45 a.m.

Sen. Robinson-Regis: Attorney General, perhaps: "ambulance" means a conveyance designed for transporting patients in emergency conditions;

Sen. Nicholas: Designed for and marked.

Sen. Robinson-Regis: Yeah.

Sen. Nicholas: And used to transport patients.

Sen. Dr. Singh: Should we say it is actually marked with the word "ambulance", which identifies that it is an ambulance easily?

Sen. Nicholas: I think marked probably covers it. The word: "ambulance" means a conveyance designed for and marked and used to transport a patient in emergency conditions; Does that read well?

Mr. Chairman: That sounds as if something is missing there. It sounds as if it is incomplete. It does not convey exactly what you would like it to be. So it is something that we have to rethink.

Sen. Nicholas: We will clarify it and move on but we will come back.

Sen. Robinson-Regis: We would come back to it?

Sen. Nicholas: Yeah.

Mr. Chairman: Okay, we will come back to that aspect of ambulance. Someone wanted to make an amendment somewhere else? Sen. Vieira?

Sen. Vieira: I was looking at "hiring car", "hired vehicle", "chartered vehicle", "commercial vehicle", "motor vehicle".

Mr. Chairman: Exactly where are you looking?

Sen. Vieira: I am looking at all the definitions. I think we need to be careful not to be too confusing. My understanding of a car is that it is a motor vehicle with wheels. My understanding of a vehicle is a conveyance that transports people or vehicles. So I think we need to ground ourselves exactly what it is we are talking about when we use the word "car" and "vehicle" and then to make sure that they are consistent in the definition. So, for example, we have motor vehicle defined as:

> "any mechanically propelled vehicle intended or adapted for use on a road or highway and includes trolley … but does not include a vehicle constructed exclusively for use on a rail or other specially prepared track;"

No mention of the fact that it is a conveyance that transports people or objects. So just putting that at one side. Then the other concern was: why do we include, for the first time I have ever seen in my life:

> '"medical practitioner' means a doctor or phlebotomist…

Where does the phlebotomist come from? Why is that in this Act? Is that not a person that deals with varicose veins and veins? I am just a little confused about some of these definitions.

Sen. Robinson-Regis: Just to add to that issue with the "medical practitioner", a phlebotomist does not necessarily have to gain his qualification from a university, because you could learn to be a phlebotomist in a clinic. It does not have to be from a university. So that is incorrect.

Mr. Chairman: Hon. Senators, please. I am fully aware what the intention is and all of us want to ensure that we have a clinical Bill that satisfies all our concerns. But I am just being mindful of the fact that each and every line that you need to amend, we do not make it too cumbersome in such a way that we of ourselves after have difficulty with it. So let us ensure that the amendments would be in keeping with the understanding of the majority and the simplicity of it makes a very important aspect. I am only warning, we cannot amend everything as we would like to. Let us ensure that we amend the useful ones.

Sen. Vieira: I disagree. I must respectfully disagree with you hon. Chairman.

Mr. Chairman: It is quite okay.

Sen. Vieira: Because this is important legislation and when we go to court and people are charged we got to make sure that these definitions mean what they say they are and that they dovetail correctly with each other.

Mr. Chairman: Sen. Vieira, we are saying the same thing but in different language.

Sen. Nicholas: Mr. Chairman, if we could just take them one at a time, I think it would be far more efficient.

Sen. Robinson-Regis: In order.

Sen. Nicholas: So let us start with "hiring car".

Sen. Robinson-Regis: No, no, sorry. With regard to the "ambulance" we said we would come back to that. I think the first one really is "chartered vehicle" and then "hiring car" and "hired" because they confuse—I think I want to agree with Sen. Vieira and indicate that the definitions are confusing because "chartered vehicle" says for 11 or more. Then "hiring car", no more than 10, then "hired vehicle" gives another. I think there needs to be some consistency with regard to the definitions of all these types of vehicles.

Mr. Chairman: For consistency purposes.

Sen. Robinson-Regis: For consistency, yes. Because I think the object in the legislation is what is it that we are trying to cure or what are we really trying to define when we define each of these: the "chartered vehicle', the "hiring car", the "hired vehicle".

Sen. Nicholas: The "chartered vehicle" is to take into consideration the limousine-type vehicles.

Sen. Robinson-Regis: The "chartered vehicle" is the limousine-type vehicle? Because the "chartered vehicle" says:

"a hired vehicle other than a hiring car, maxi-taxi or private school bus with seating accommodation for eleven or more passengers…"So I do not know if that is a limousine. That is one of those buses that has been restored. In a lot of instances it is one of those buses with all the fancy—that they have restored and use as charters.

Mr. Chairman: They make good for excursions.

Sen. Robinson-Regis: Yes, they charter those buses.

Sen. Nicholas: So the limousine, the buses, you are right.

Sen. Robinson-Regis: It is like when people go on an excursion and they do not take the PTSC bus but it is one of those buses that somebody has restored.

Sen. Nicholas: Yes.

Hon. Cadiz: Senator, the different types of hire that you have these days is that you have the regular route taxi, as we know. I am not talking about PH. I am talking about the regular route taxi. Some of them are licensed for four passengers or five passengers. Now we see route taxis going up now to, I think, seven passengers because of the configuration of the vehicles now.

Then you have maxi-taxis. Now route taxis and maxi-taxis operate on a route system where they can stop intermittently and pick up and drop off passengers at will. Then we move from that now and we are moving to where you have the chartered vehicles where the vehicle does not operate on a route, it does not have a band, for instance, like a maxi-taxi but it is a vehicle for hire. But the hire is for a specific purpose of moving, for instance, people from one venue to another venue.

Also, where these chartered vehicles can carry up to—some of these stretch limousines can seat legally up to about 20 people. But they are not registered as an H because they are not on the regular hire system and that is where we have a situation where we have a whole new business that has grown up and yet still the current legislation does not cater for it. So you have the route taxis, you have maxi-taxis and you have the chartered vehicles.

Another area that there is an issue with, for instance, is private mini buses that do for instance, tourism tours. They do a swamp tour, Asa Wright tour or whatever it is. Those are not maxi-taxis, yet still it is an 11-seater or 25-seater for hire for a specific purpose, which is the tour business and therefore, under the current legislation that is not catered for at all. So what we are looking to do here is to be able to split that out then.

We will still maintain the regular route taxis, which is the hired car, which speaks about a hiring car and a maxi-taxi and then we are looking at the issue of the chartered vehicles, which is specific type of charter that has to be differentiated between that and a maxi. For instance, if you go to licensing office now and you want to license it as a hired vehicle they would say: where is your band? Well I do not have a band because I am not running a maxi route and, therefore, that is why you see some of these vehicles are licensed as a P, licensed as a T and really and truly there is no legislation to cover it. And, therefore, it is felt that with this legislation we have to legally bring those vehicles under the ambit of the law.

Sen. Robinson-Regis: Under the ambit. I understand that.

Hon. Cadiz: So that is why we have a "chartered vehicle", a "hired vehicle" and a "hiring vehicle".

Sen. Prescott SC: May I intervene? Sen. Vieira did make the observation that it might be necessary to start, to achieve simplicity, by firstly distinguishing between a car and a vehicle if that is our intention. And then when we have addressed that, when does a "hired car" become a "chartered vehicle"? It appears when you read two of the definitions that "hired car" may well be a "chartered vehicle". If we start with a definition of "car" and "vehicle" we might able to make some distinctions that make it clearer, I suspect.

Sen. Robinson-Regis: Minister, could I also say in the definition, maybe we also need to give an idea of use because you explained that it is used for various reasons, and so on. And so, if we do that definition of "car" and "vehicle" and probably add the use to which it is put, then maybe we would get a clearer definition.

Hon. Cadiz: You mean eliminate the word "car"?

Sen. Robinson-Regis: Not necessarily.

Sen. Vieira: No. For example, I would start with the route as vehicle. Now, use is the key thing with a vehicle and when I checked the dictionary "vehicle" is defined as a conveyance that transports people or objects. Now the definition we have of vehicle excludes that. It just says:

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

So I would have started with the definition "vehicle" means a conveyance that transports people or objects and includes, and I would say any car, because you do use the word "car" for "hired car", for example, motor vehicle trailer or construction equipment. So we have a definition grounded in vehicle. And then we have to talk—but car is really a motor vehicle with wheels. That is the definition of a car in the dictionary. And then we have to tidy up "chartered vehicle", "commercial vehicle", "hiring car". I see when I compare this with the road traffic legislation, as I have said, you have most everything word for word, as you have had before, but some things have been left out. Goods vehicle, we no longer have goods vehicles on the road?

Hon. Cadiz: But we have a "commercial vehicle" that speaks to merchandise and loads and goods and haulage of goods, et cetera.

Sen. Vieira: All right. Once we are—what I want to avoid, Minister, is that we inadvertently leave out something that we find that there is now a gap in the law. So we have got to make sure everything dovetails.

Hon. Cadiz: Okay, yeah. Well we will take recommendations for the issue of the chartered. I hope we understand that what has happened over the years with these chartered vehicles. For instance there are insurance issues with a chartered vehicle that again, because of the way they are being registered now it is an issue.

You have companies, for instance, that use chartered vehicles to transport crews, whether it is a flight crew or whatever it is, and they do not want those vehicles to be identified, for instance, for safety reasons. They do not want them identified as a chartered vehicle. They just want the plain maybe white colour, so no identifiable marks or anything on it. But, again, regardless of the colour, the registration and now the insurance that would be applicable to that vehicle, that is what we are looking to tidy up here.

Sen. Prescott SC: Mr. Chairman, just for my understanding, through the Minister, could we approach it as has been suggested, that we firstly distinguish between vehicle and car and then we do classifications of different types of conveyance based on usage?

Sen. Nicholas: I know that, at first reading, it would appear to be confusing but it actually is not. They are actually subsets that are clearly defined. And if read carefully, you would actually be able to tell the distinction. We are a bit hesitant to change the definitions because those definitions have been carefully worded and it follows through the rest of the legislation very importantly in that way. So unless there is a real issue—

12.00 noon

Sen. Vieira: Hon. AG, let us look at the definition of "vehicle trader":

> "'vehicle trader' means a person who sells or conducts a business of buying, selling or dealing in vehicles;"

Straight enough on the face of it. So now, we look at "vehicle":

> "'vehicle' includes any motor vehicle, trailer, construction equipment…"

Do those two things you think satisfactorily mesh together? I do not think so, they almost sort of like, make assumptions on each other.

Sen. Nicholas: The original definition of "vehicle" would have included tramcars, carriages, wagons, carts, motor vehicles, bicycles, tricycles, vans,

handcarts, sledges, trucks, barrows and all other machines for the portage of goods or persons.

Sen. Vieira: It says includes, but it does not really say what a vehicle is, and what I am suggesting is that a vehicle should be defined as: a conveyance transport—

Sen. Nicholas: Now, this is the original definition of "vehicle", eh.

Sen. Vieira: I know.

Sen. Prescott SC: Very comprehensive, it seems to be suitable, but remove the word "includes".

Sen. Vieira: But I would say "vehicle" means: a conveyance that transports people or objects and includes these things. Now, when you look at "vehicle trader", we have a clear idea of what it is this person is engaged in.

Sen. Nicholas: I must admit we would have no difficulty with the definition of vehicles as proposed.

Sen. Prescott SC: Yeah, I think that is a good start.

Sen. Dr. Mahabir: Have we settled on a definition of the word "car"?

Sen. Nicholas: Car is not defined.

Sen. Prescott SC: AG, in answer to that question one may say that—

Sen. Nicholas: Car comes under the definition of motor vehicle.

Sen. Prescott SC: And the distinction might well be facilitated by going towards the usage of the various means of conveyance. So you say truck; vehicle says, if it is used for X, it is a truck; if it is used for Y, it is a car; if it is used for something else it is a drone.

Sen. Dr. Mahabir: Since, Minister, cars would constitute about 80 per cent of the population of the elements we are dealing with, let me suggest a definition for the car, so we would be clear, and it is left entirely, of course, to the draftspeople to determine whether it is acceptable or not for the legislation:

> A car defined as a road vehicle, typically with four wheels, powered by an internal combustion engine, and able to carry a small number of people.

Sen. Nicholas: Okay. The other thing we need to be cognizant of is that the Third-Party Risks Act actually uses these same definitions and, therefore, if we change these definitions, it impacts on that Act.

Sen. Dr. Mahabir: Let us get a definition of a car. You see, my point is a definition of a car is important.

Hon. Cadiz: Senator, I just want to be very careful when we are defining a car, for instance. You talk about internal combustion engine. Tesla Motors in California is building vehicles now with no internal combustion engines; it is all electric motor driven, okay—one huge success. So if we start getting down into definition of a car, internal combustion engine, they have cars with three wheels now, okay, rather than four wheels. So then we start going—you know with the way the technology is, I think you may want to be—

Sen. Vieira: I absolutely agree, but a simple definition of a car is: it is a motor vehicle with wheels.

Hon. Cadiz: I would say—because you cannot move unless it has wheels. Put this way, they have not invented, that is, anything else as yet. I would go with a very simple definition of a car.

Sen. Nicholas: We have a "private motor vehicle".

> ""private motor vehicle' means a private passenger vehicle approved by the Authority for private use exclusively and includes a pick-up;"

Sen. Prescott SC: So that is a car?

Sen. Nicholas: That covers a car and it also covers a pick-up.

Sen. Dr. Mahabir: Once the definition is there, and we understand it, that is fine.

Sen. Nicholas: It is there. If we go back to the definition of "ambulance", again, in the third party Act—no, this is what? This is the emergency ambulance services and emergency medical personnel legislation:

> '"ambulance' means a conveyance used to transport a patient either by air, land or sea for health related reasons and to transport patients with emergency conditions;'

Sen. Prescott SC: What I like about that approach is that it goes to the usage first, so that you can actually establish this is—vehicles are these, and then you have subdivisions: a car is used for that; a truck is used for that; a tractor is used for that; and you may well then have a catch-all phrase that says, any other thing they invent that comes close, is a vehicle.

Sen. Nicholas: So are we okay with this "ambulance" definition?

Sen. Prescott SC: As different from the one we had spoken about a moment ago? Except it speaks to flying and we did not mean to include flying in the Motor Vehicles and Road Traffic Bill, 2014, but yes.

Sen. Nicholas: But we would, of course, knock off the air and sea.

Sen. Prescott SC: Yeah, it does seem to me that is it.

Sen. Vieira: Well, this definition is wide enough to include everything. A conveyance could be air, sea, anyhow.

Sen. Nicholas: Okay. So let us proceed. Let us go back to "ambulance" and the definition that we are agreeing upon:

> "means a conveyance used to transport a patient for health related reasons and to transport patients with emergency conditions;"

Okay? So we can agree on that, Mr. Chairman. I shall read it again:

> "means a conveyance used to transport a patient for health related reasons and to transport patients with emergency conditions;"

Sen. Dr. Singh: AG, should we say that it is a vehicle that is specifically designed for those purposes? Because you do not want to have situations where somebody buys a U-Haul and puts "ambulance" on it, and they consider it an ambulance.

Sen. Nicholas: Yeah, you see, we are just—we want to harmonize the definitions, and I think it is important we have the consistency.

Sen. Dr. Singh: Just to give an example, there are medical centres that use Navaras with a cover at the back, a tray cover, as an ambulance. So, I mean, I do not see that as being an ambulance. So I think you need to state that it is specifically designed for the purpose.

Sen. Nicholas: Okay, we could include design.

Sen. Vieira: I want to come back to goods vehicle and freight.

Sen. Nicholas: So:

> " 'ambulance' means a conveyance designed and used to transport a patient for health related reasons, and to transport patients with emergency conditions;"

Sen. Robinson-Regis: AG, could you repeat it, sorry? Can you repeat?

Sen. Nicholas: It means:

"a conveyance designed and used to"—so it is designed and it is used to—"transport a patient for health related reasons and to transport patients with emergency conditions;"

Sen. Robinson-Regis: Not to quibble, but I was just wondering why do we have—I know it is a definition that is there in a previous piece of legislation, but why do we have a patient than patients? Why do we not just put patients or—

Sen. Nicholas: A patient would mean more than one patient.

Sen. Robinson-Regis: I know, but I mean, if you said patient or patients, either one, would mean that you could transport one or you could transport more.

Hon. Cadiz: It all depends on how the—if it is designed for two or four persons.

Sen. Nicholas: I imagine we can use patients across the board. I think we could leave it as patient and patients. Very well. Okay, so we have ambulance out of the way.

Sen. G. Singh: No, we have to wait for the Vice-President.

Sen. Nicholas: Not procedurally. [*Laughter*]

Mr. Chairman: "'ambulance' means a conveyance designed and used to transport for health related reasons—

Sen. Nicholas: No, to transport a patient—

Mr. Chairman: To transport a patient and health—

Sen. Nicholas: For—

Mr. Chairman:—health related reasons and to transport patients in emergency conditions.

Sen. Nicholas: With emergency conditions.

Mr. Chairman: With emergency conditions. So, is the definition of ambulance out of the way? Could we now continue with charter?

Sen. Prescott SC: Chair, I am saying it again, would the AG consider firstly establishing a definition of vehicles, and then sub-classifications will come under that very definition. So it goes on to say and for this purpose car means this, truck means this, tractor means this. It might resolve the question, and though sub-classifications will be attributed only to the use to which the conveyance is put -

Sen. Nicholas: The sub-classifications, for example, a private motor vehicle is clear. A private school bus is also clear in terms of how it is used.

Sen. Prescott SC: Vehicle means a conveyance, et cetera, et cetera, and for this purpose, a car is a vehicle, but it is one that is used for X. A tractor is a vehicle but it is one that is used for Y. Are you with me?

Sen. Nicholas: What would you suggest to be the definition of a vehicle? Do you have a suggested amendment?

Sen. Prescott SC: A conveyance that is used for transporting passengers and objects?

Sen. Vieira: A conveyance that transports people or objects, and then what you could say is, and for the purposes of this section—

Sen. Prescott SC: This legislation.

Sen. Vieira:—vehicle includes—then as Sen. Prescott said—a motor car, a trailer, whatever it is. I mean, that is the drafting style in legislative precedents. [*Holds up a book*] We could probably do that and come back, but the definitions are critical.

Now take, for example, we talked about goods. I looked at the goods again, and I looked at your "freight passenger vehicle", but the way "freight passenger vehicle" is defined:

> '"freight passenger vehicle' means a motor vehicle constructed for the purpose of carrying both passengers and goods…"

Now, what happens if you are not carrying passengers? I would have thought a lot of goods vehicles are not carrying passengers at all. The old goods vehicle—

Sen. Nicholas: It does not say that you have to carry both, you know.

Sen. Vieira:

> "constructed for the purpose of carrying both passengers and goods and which is approved by the Authority as suitable for that purpose."

So I just find it a little—

Sen. Nicholas: What is the difficulty with that?

Sen. Vieira: Well, look at how goods vehicle was defined before.

Mr. Chairman: I think then that we are going all over the place. With due respect, I mean, everybody is speaking out of turn, while other persons that have given indication to speak, are waiting to speak. I will now ask Sen. Dr. Balgobin, he has been indicating to say something.

Sen. Dr. Balgobin: I merely wanted to pose a question. Are we sure this is the

optimal approach to dealing with this, because we already—it seems as if we are pulling on some threads of a jacket here, and this thing can unravel very, very quickly. Are we sure this is the approach we want to take? It really, to my mind, recommends itself to a different type of treatment, where we are able to sit in a different place and hammer this thing out.

12.15 p.m.

What we are doing here I think is dangerous because we may very well end up passing something that may have unintended consequences, and we all know it is easier to bring a new law here than to fix one. So, I want to just sort of, as you say, plant a flag, stick a pin, call for a pause, whatever, and say: are we sure—I am asking really the Government side—whether you really feel this is the optimal process? Because there are too many clauses and too many pages inside of this thing and if we make even one mistake it would be a big mistake.

Sen. Vieira: Exactly.

Sen. Dr. Balgobin: So, I am encouraging you guys to sort of perhaps pause, reflect on that and decide if this is really what we want to do as opposed to treating with it a different way, hammering it out and bringing it back here with all of the amendments in one track.

Sen. G. Singh: I think that—I hear what you are saying, but there are significant amendments that have been circulated, and that therefore we should use the parliamentary time to have some measure of commonality that will emerge, and then we can get the technical people to work with it, but I do not think that we should utilize the time—[*Interruption*]

Sen. Dr. Balgobin: Would you agree therefore then that you will not take this to a final vote?

Sen. G. Singh: No, no, we have to complete the job at hand before any final vote.

Sen. Dr. Balgobin: Right. So we would just try to hammer this out, but we do not take a final vote.

Sen. G. Singh: I do not want to prejudge the issue. Let us proceed. There is a series of amendments. Let us get a commonality of views on those amendments so as to make efficient use of the parliamentary time, and then after that, then we are in a position to make an appropriate judgment.

Sen. Dr. Balgobin: But the principle of the thing should be this. If we are doing this in here that we ought to be able to step back from it—[*Interruption*]

Sen. G. Singh: Yeah, of course, no, no, no.

Sen. Dr. Balgobin:—and have the opportunity to kind of look at what we have wrought and decide if we—[*Interruption*]

Sen. G. Singh: That has been our style and you can be assured of that.

Sen. Dr. Balgobin: So, okay.

Sen. Robinson-Regis: Thank you very much, Senator. Could I say—Minister, thank you for that intervention—that when a Bill comes to committee it is for us, as is said by the Minister when he sends the Bill to committee, to consider the Bill clause by clause. Yes, we have seen these amendments that, as you call them, are substantial amendments, and we will get to these amendments, but the opportunity presents itself now for us to consider the Bill clause by clause.

If we have concerns with clause 4, we have to raise those concerns and not think that the concerns are only these that have been brought. It may not be that we have brought our amendments, but there are concerns that this is our opportunity to consider the Bill clause by clause. I would like to—as we had said, when we spoke on the Bill, that we had concerns apart from. I think even in my contribution I spoke about "hiring car", "hired vehicle". Even in the definition section there were concerns.

It is not just me or our bench, but my colleagues said from the very beginning that the concerns—when the President said or the Chairman said: "We will go 1 to 4 and then go on", he was stopped and it was said we have concerns even in the definition section. So I just want us to be sure that we are using the time as we have been asked to use it as adequately as we can.

Sen. Vieira: And if I may echo what Sen. Robinson-Regis and Sen. Dr. Balgobin are saying, when I read this Bill, I am also thinking from the point of view as a criminal law practitioner where you have a whole body of case law dealing with definitions with road traffic, like Wilkinson's. The definitions here go beyond the Motor Vehicles Authority. I would want to be consistent that we do not unduly affect established case laws and principles of law. I really want to urge, like the fellow Senators are saying, we have to be careful, we have to be astute here because we could be making some unintended changes.

Sen. Drayton: Mr. Chairman, I just wish to echo what has just been said. I do not wish to devalue the importance of the definition section in this Bill. We are dealing with a Motor Vehicles and Road Traffic Bill, and we have just tried and spent nearly 45 minutes to define what a motor "vehicle is", and we have not been

able to come to an agreement about what a "motor vehicle" is, what a car is, what a bicycle is, as the case might be.

So I want to suggest and echo what has been said that we really seriously consider another avenue for dealing with this very comprehensive and very important piece of legislation. I think we have all said that in principle it is something we support, but we certainly want to get a Bill that is functional. Thank you.

Sen. G. Singh: Thank you, Mr. Chairman. I merely want to indicate that it has been our style that we seek to incorporate the sentiments expressed by all in this matter. I think that we have the time. It is only midday and that, therefore, having regard to the significant amount of clauses and the fact that there is a significant amount of amendments, I think we will do the Parliament and give the Parliament the benefit of the sentiments of Members of this Senate as we proceed.

The general accepted approach is that if we are stalled on any area, not on policy, but on technicality and in terms of drafting, we leave it to the technical personnel to deal with that and we will return to that whilst we deal with the other issues raised.

It appears to us that there is some—for want of an appropriate term—stalling on the issue of the definition, and that perhaps to get the vehicle floating we may want to consider an early luncheon which normally starts at 12.30 so as to give the technical personnel time to bring their technical expertise to bear upon the deliberations of the committee.

Sen. Robinson-Regis: May I ask a question though on that issue? Has it been decided whether we would go with the suggestion of vehicles and then a subset of that, like a definition of vehicle? I do not know if that is a policy decision or if that is a stylistic decision, because that would also assist in whatever decision you come to. Is there a decision on that?

Hon. Cadiz: Senator, I take Sen. Vieira's recommendation that we identify exactly what is a vehicle and then the subsets of vehicles, and then I think that would clean everything up very easily.

Sen. Robinson-Regis: Okay. So could I just point out that there is "motor-driven cycle", "motor omnibus". There are quite a number of definitions of various types of vehicles. In that sense, could I also ask whether under the definition of "traffic" it was intentional that tricycles be included in that definition of traffic?

"'traffic' includes bicycles, tricycles, motor vehicles of every description, pedestrians and all animals being ridden, driven or led on a road or highway;"

I do not know if "tricycles" was intended. Is it? [*Crosstalk*] I know what a tricycle is. I just wanted to know.

Hon. Cadiz: Three wheels.

Sen. Nicholas: It is taken from the original Act.

Sen. Robinson-Regis: I know what a tricycle is. If you would recall, I still have little children. I still even have tricycles home that they do not use, but I just wanted to be sure that you intended to put "tricycles" as part of your traffic definition.

Hon. Senator: Yes.

Mr. Chairman: Yeah, because it is being operated by human, peddling and this sort of thing. So based on what you have suggested that we will undertake to revisit and to get a definition so when we resume we will have a consensus based on the statements made or opinions of the various Senators to arrive at a consensus.

Sen. Nicholas: Mr. Chairman, if we could probably get the list of definitions that are causing concern then we can treat with all of them during the break.

Hon. Senator: Medical practitioner.

Sen. Prescott SC: All of the definitions that are here which refer to conveyances, things that convey. In case we miss any: "hiring car", "chartered bus", "private…vehicle", tricycle, any of those things that refer to the carriage of persons and things, from point A to point B, should now come under the definition of vehicles.

Hon. Cadiz: Could I ask Sen. Vieira, he mentioned he has an issue: Where is the term "goods vehicle"? But the term "commercial vehicle" I think covers all of that. I think what we are trying to do also, even though we have tricycle in it still, is to really and truly bring the legislation where commercial vehicle, goods vehicle, haulage, all of that, comes under one umbrella as commercial activity.

Sen. Vieira: Minister, let me assure you, we are not being difficult. We are lawyers and we have a responsibility to try and fix this.

Hon. Cadiz: I do not understand that—you are lawyers but you are not being difficult, you know? [*Laughter*]

Sen. Vieira: The other point I want to make is, I really do want to suggest that if we get the definitions right, everything will flow easier. We are not going to be like this right through, but this is the fundamental bit.

Sen. Nicholas: Mr. Chairman, in addition to the conveyancing of persons and equipment issues, there is also the definition of "medical practitioner". Is there anything else?

Mr. Chairman: Even the suggestion that was made would take care of all those questions that are being asked now, and there are those who would sit to ensure we have a consensus as it relates to what we are discussing, the definitions—that given sufficient time, as suggested, to enable them to arrive at the questions that are being asked now. Whoever are the ones that have the concerns would be sitting with the Government to ensure that we come back with the definition as we would like it to be. So, instead of one hour I am suggesting then that we go beyond that to give sufficient time to take care of the definitions that are so critical.

Hon. Senator: Absolutely.

Mr. Chairman: So, could we say two hours?

Sen. G. Singh: Yes, two hours.

Mr. Chairman: All right. Well the committee is now suspended until 2.30, half past two. The session is now suspended.

12.28 p.m.: *Committee suspended.*

2.30 p.m.: *Committee resumed.*

Mr. Chairman: Hon. Senators, thank you, the sitting has reconvened. When we broke we did have an understanding that there would be the meeting of minds as it relates to certain definitions that we were dealing with, and, therefore, I have been informed that the final touches would be fleshed out in just a few minutes. They are on their way so we will await them and we will then proceed with today's business. Thank you for your cooperation.

Let us take the opportunity to welcome our Senators who are here. Where is Sen. Henry? [*Crosstalk*] We are making some copies and it would be circulated among all the Senators so everybody would be in touch with what is happening. [*Crosstalk*] Hon. Senators, since copies are being made that we would be able to circulate to all the hon. Senators, I have been informed that we could go to clause 5 and revisit clause 4 when the copies are being circulated. Is that in agreement with everyone?

Clause 4 deferred.

Clauses 5 and 6 ordered to stand part of the Bill.

Clauses 7 and 8.

Question proposed: That clauses 7 and 8 stand part of the Bill.

Sen. Prescott SC: Chairman, may I just make an observation in relation to clause 7(2)(iii), and enquire what is the thinking behind the issue of licence plates and identifying tags being exclusively within the portfolio of the Authority?

Hon. Cadiz: The issuing of licence plates and other identifying tags for vehicles as stated there, it is felt that in order to maintain control over vehicle registration that it must come under the purview of the—or the responsibility and purview of the Authority. At present, anybody can make a licence plate and anybody can affix a licence plate onto a vehicle, and fraudulently so. It is not to say that you are replacing a licence plate that was actually damaged and, therefore, you went around to a corner shop to buy a licence plate and affix it. In this way, the 800,000-plus vehicles, in order to maintain the integrity of the data that the Authority, the Motor Vehicles Authority, will be the only entity that will be issuing licence plates and other identifying tags.

Sen. Prescott SC: It came to my mind that we were now creating a manufacturing concern and I just wondered whether that is what we really want the Authority to do, as opposed to simply giving approval for its use or certifying it. If you present your vehicle for registration and it carries a plate that you consider satisfactory, approve it. So it is a layman's view and I would be quite happy to hear what you would say.

Hon. Cadiz: Yes. Well, the thing is that the licence plates and other identifying tags means that we are going to be going with the RFID tags, radio frequency ID, and, therefore, again, in many jurisdictions the State takes ownership of the issuing of plates, the manufacturing of plates, even if it is done by a vendor, but it is under the responsibility and authority of the State.

Sen. Prescott SC: Very well.

Hon. Cadiz: Now you have, all and sundry, anybody can print a licence plate right now.

Sen. Prescott SC: Very well, I understand. Unless somebody has something before that, my next comment is on (x).

Sen. Al-Rawi: Yes, please—

Sen. Vieira: I had (ix).

Sen. Al-Rawi:—and in relation to the same clause. Hon. Minister, I am grateful that you mentioned the RF tags. In the course of debate it was said that the RF tags were old technology that was not going to be used, could you please clarify that?

Hon. Cadiz: I am not too sure who said that, but the RFID tags are current technology.

Sen. Al-Rawi: If I may enquire, is it the same technology that was acquired previously, prior to 2010?

Hon. Cadiz: No technology has been acquired as far as the RFID tagging is concerned.

Sen. Al-Rawi: It is the Canadian—

Hon. Cadiz: In fact, the Canadian model, the Province of Nova Scotia, strangely enough, does not use RFID, they use a standard ID plate. The RFID, it was felt that we needed it in Trinidad because of our current situation. So, we are one step above, in fact, the Province of Nova Scotia.

Sen. Al-Rawi: And if I may enquire, relative to the potential closure of a number of businesses that are in the business of manufacturing plates, you see them opposite the licensing office, et cetera, has there been any form of consultation with those persons to be affected, business-wise?

Hon. Cadiz: The consultation has been far and wide, and for all persons interested in issues pertaining to the Motor Vehicles Authority and licensing were free to attend. There has been no specific consultation for persons who generate income from current Licensing Authority, no.

Sen. Al-Rawi: Thank you. May I just enquire, in terms of the procedure prior, having arrived late to Senate because of court, Mr. Chairman, do we propose that if we have a clause, that is after the clause is listed, for instance, in this clause here that we are looking at, 7(2) after roman (xviii), that we then raise it then? Are we going seriatim? There were some general observation issues that I wanted to enquire of the hon. Minister. Perhaps I should allow the other Senators to proceed, then I will kick in after.

Sen. Vieira: Thanks. I wanted to look at the register and regulate provisions. So, we are registering and regulating vehicle traders, private school buses, vehicles for hire, driving schools; I have no problem with any of those, but

regulate and monitor the use of maxi-taxis, why not just regulate and monitor the use of vehicles? Go with the wider, because in my contribution I talked about my concerns about heavy-duty and monster vehicles on our roads, and it seems to me that we are limiting ourselves to just one type of vehicle here.

Sen. Al-Rawi: And that sort of picked up, Mr. Chairman, in 2(a)(vii), where we "register and monitor all persons who provide the services of vehicles for hire". So, the simple point is that the net may be a little bit narrower than one intends in this type of setting-out of powers. Once we prescribe powers then you are limited to the powers as set out, even though the Act has a fair catch-all clause, the ejusdem generis kicks in.

Hon. Cadiz: I think when it comes to (ix), to "regulate and monitor the use of maxi-taxis", maxi-taxis are a particular transit system that was developed, I think, in the early '70s where they are banding, green band, red band, yellow band, brown band, blue band, and, therefore, they can only operate on those particular routes, as against, for instance, a regular route taxi—a route taxi could operate in Maraval one day, it could operate in San Fernando the next day. There is no regulation as far as the route taxis are concerned, but the banded maxi-taxis have a specific geographic area that they operate in, and, therefore, it was felt that we will continue with that particular mode of transport, and, therefore, we would have it as a separate item.

Sen. Vieira: I understand that, but if I were to be—I am just imagining that today/tomorrow you were to purport to regulate another type of vehicle, you might get some enterprising attorney arguing, you have no authority under this legislation because it does not provide for you to regulate and monitor the use of vehicles, you are limited only to maxi-taxis. [*Crosstalk*]

Sen. Al-Rawi: If I may support Sen. Vieira, even though there is a catch-all clause, hon. Minister, the catch-all clause falls prey to the manner in which one interprets legislation by law. So having specified maxi-taxis in (ix) or in (vii) vehicles for hire, the problem is the ejusdem generis application notwithstanding the catch-all phrase.

2.45 p.m.

Hon. Cadiz: Senators, under (ix) we will remove the wording "maxi-taxi" and have it read, "regulate and monitor the use of all vehicles".

Sen. Al-Rawi: That would affect (vii) as well. The architecture for this drafting proposes a listing specifically of a number of things, and then we have a catch-all phrase. Look at (vii):

"register and monitor all persons who provide the services of vehicles for hire;"

So we are segregating the thing which is "all vehicles", which, in my view, is a better approach to take, but what about the persons now associated with vehicles?

Sen. Nicholas: This is specific to vehicles for hire. This is different.

Sen. Al-Rawi: So, for instance, the general power to ensure that there is attached a function power, so somebody does not say, "Well, you have acted ultra vires and now I will judicially review you", et cetera. That is the mischief that we have in mind. How do we avoid an ultra vires argument?

If that is the case then we have treated with the thing, all vehicles. I think that is a better approach indeed. What about now all persons involved in this arena? Because that is what you are proposing to do. Are you therefore, by electing architecturally to segregate the types of persons to be monitored, entities to be monitored, that you will now be caught by the same mischief that we have just avoided in prescribing vehicles?

Sen. Nicholas: I do not see it being similar.

Sen. Al-Rawi: May I also, Mr. Chairman, ask about (xvii):

"the security, integrity, and accuracy of the information contained in the database of the Authority;…"

Under the Data Protection Act it is the responsibility of the person who supplies the information to ensure its accuracy, et cetera. We are reversing that position here now. That is point number one. Secondly, we also have—

Hon. Cadiz: Remember the Motor Vehicles Authority is both for the registration of vehicles, so the data, for instance, that you collect on a vehicle, it is absolutely critical that that database is maintained in a way that is secure, the integrity of the database of the vehicle. So it is not only about driving permits. The vehicle ID information, chassis number, engine number is something that has to be maintained and, again, we need to ensure the integrity of the system. Right now we cannot guarantee that the information that is there at the place known as the licensing office is accurate, and what it says—

Sen. Al-Rawi: Sorry, hon. Minister, that was not my point. I accept that the Authority must do the Authority's work and must do so accurately. What I am saying is that there is a construction conflict between two pieces of law: the Data

Protection Act which applies, on the one hand, putting an onus upon the individual, and this legislation which reverses the position. This being latter legislation, under the Interpretation Act it will constructively redound the earlier law, but the earlier law has not yet been proclaimed in its entirety. So I am asking: how do we treat with the construction conflict in terms of the interpretation of the laws? That is the first point.

The second thing that concerns me, relative to security and accuracy of data, RF identification tags—once we begin to use arch, towers, et cetera—are capable of tracking movement, and there is a freedom of movement constitutionally enshrined in Trinidad and Tobago. Yes, you would know which car passed at a particular point, depending upon the technology available at any point in time.

Under the freedom of movement aspect—hon. Minister—

Hon. Cadiz: I am listening to you.

Sen. Al-Rawi:—just before your facial expressions caused me to go in the opposite direction, I am just asking—there is nothing sinister in the motive here; we have a three-fifths clause for the Constitution here. I am not saying that it is unconstitutional, so long as it is proportionate. What concerns me here now is the database itself.

Under the Electronic Transactions Act, under the DNA Act, wherever we created a repository of electronic information, what we did architecturally and in terms of law, was to anchor a responsibility as to who owns the system in law, so that the consequences could be mapped out. If one were to look at the Computer Misuse Act right now, there are consequences for mining into the data, et cetera. But the obligation to own and maintain a database, where is that ascribed to in the legislation here?

Sen. Nicholas: The fact that the Authority will maintain the security, integrity and accuracy of the information, gives the Authority the ownership of the data.

Sen. Al-Rawi: Thank you, hon. AG. Then why have we taken a different approach in all the other legislation that we have passed in this Tenth Parliament, where we actually say who owns the data? The concept started off in the DNA legislation, and the explanation given by your predecessor was that it was critical to have the ownership anchored in law.

This legislation departs from that model and causes me some concern, because when we are looking to ascribe liability now in terms of something that goes wrong on the Authority's end, then we need to be able to fix the onus and

responsibility, the breach—a breach of confidence, for instance—if there was a breach of security, who would be the person with authority to prosecute in this instance? Who owns the database?

Sen. Nicholas: In this case I think it is very clear that it is the Motor Vehicles Authority that has the responsibility for ownership. It is this Authority that is charged with the collection of the data, the securing of the data. It is not like collecting DNA, where different persons can collect DNA and then channel it to one custodian. This is very clear as to who the ownership of the data is, because you are coming and you are bringing the data to that organization. That organization is charged with the responsibility to hold it, secure it and to use it.

Sen. Al-Rawi: Hon. AG, thank you for the explanation. If I were to consider that argument this way—

Sen. G. Singh: What I want to suggest, before we get into a Court of Appeal matter, if there is any kind of recommendation that you can make with respect to allowing for the harmonization with respect to the legislation from the DNA to this.

Sen. Al-Rawi: May I then suggest—thank you, Leader of Government Business for that very useful suggestion—may I suggest that I think that it is useful to put an ownership, as opposed to custodianship obligation, upon the Authority. May I also suggest that that would assist us in affixing the liability management and the prosecutorial management of the Authority. May I also suggest that there ought to be someone identified as having direct responsibility for this.

The Data Protection Act would have a custodian for information in every public authority. But I do not know if in this instance here, bearing in mind how important that Authority is, the information in the Motor Vehicles Authority, whether it would be useful to have someone directly responsible in the legislation for that. Perhaps it may be met by an explanation that the registrar or some other officer has that direct responsibility. But I did not see the responsibilities of the Registrar mapped out to that data management responsibility.

Sen. Nicholas: Maybe we can cure it that way.

Sen. Al-Rawi: May I also in terms of the general policies here and powers now point out that the legislation prescribes for the Authority to have the power to have the property of the State compensated in an accident, for instance—a road sign gets knocked down. We are now putting the responsibility for payment to the Authority for those things.

Sen. Nicholas: Are you speaking to a specific clause?

Sen. Al-Rawi: Yes. So later into the Act when we have destruction of property—

Sen. Nicholas: Could we deal with it when we get there?

Sen. Al-Rawi: No, but it ties into powers here. What I am interested in is the power to collect revenue or manage in respect of property destruction, and then how we propose to treat with escheat moneys in particular, when there is an escheat or unclaimed aspect of property. In the circumstances where there is a dispute, there is a claim, how do we treat the power to balance all of that out with the revenue?

Sen. Nicholas: If you would point us to the particular clause you are referring to, we will treat with it, if it is in this section.

Sen. Al-Rawi: I am speaking to the power to do—we have taken the architectural approach to specify powers. All of them relate to only a certain aspect of it. We are not dealing with the property side of it. We have pointed to the vehicle issue, we have just pointed to the information management issue and the third limb that I thought has not been dealt with, and I wondered if it should in terms of powers to be addressed here, was the issue of the property and revenue side of the Authority. So it shall have the power to do certain things as it relates to finances.

Sen. Nicholas: Are you suggesting an amendment in clause 7 or 8?

Sen. Al-Rawi: To include a power specifically.

Sen. Nicholas: Where are you suggesting the amendment?

Sen. Al-Rawi: You see, I do not know what the policy consideration for this revenue collection is. Normally, if you are collecting revenue under this, for instance, one thing that jumped out—

Sen. Nicholas: Where are you suggesting the amendment?

Sen. Al-Rawi: It would be a new clause inserted.

Sen. Nicholas: Where?

Sen. Al-Rawi: I am not sure where, you would have to tell me the policy just yet. But if I could just tell you what the mischief in mind is. The mischief that I am seeking to address is: how do we deal with the revenue collection side for property, et cetera? Is this a money Bill for instance, I do not know. Do we need a

certification, that because moneys are being generated by the operation of the Authority that it falls within the legal definition of being a money Bill and therefore it has to have certification of the Speaker of the House? I do not know. So I would like to know how we treated with those concepts from a mischief point of view first.

Mr. Chairman: Minister of Transport, while you are deliberating on that, in the same clause 7, I just want a clarification of understanding of what this means here also. Subclause (vi):

> "the mandate for collective bargaining and approving collective agreements in relation to the terms and conditions of employment of persons employed by the Authority;"

Therefore, my mind tells me what will happen to those who are already there, what provision? Because you only speak in terms of those that the Authority now coming in will be the employer. So we will want to have an understanding of that.

Sen. Vieira: Chair, you took the words out of my mouth. I was coming to that, and I had one before.

3.00 p.m.

Sen. Al-Rawi: Thank you, Mr. Chairman.

Sen. Nicholas: You have to declare your interest, Mr. Chairman.

Mr. Chairman: It is just a matter of clarification. [*Crosstalk*]

Sen. G. Singh: "All yuh take management out of the thing nah man."

Hon. Cadiz: Chairman, there is a clause later down that deals with that, and the issue of the secondment—not secondment, succession, sorry.

Sen. Vieira: Can I look briefly at (b)(ix), "a code of conduct for the employees of the Authority;". Now, again, I think that this is unduly restrictive. We are at 7(2)(b)—

Sen. Prescott SC: (iv).

Sen. Vieira: Sorry (iv). I am dyslectic. "…code of conduct for the employees of the Authority;". Now, this legislation is going to be treating with vehicle inspection centres. They are carrying out functions on behalf of the Authority. We have licensed and certified driving instructors who are carrying on functions on behalf of the Authority. We have medical practitioners and phlebotomists who will be doing exercises and functions on behalf of the Authority. So, why limit it

to just employees. Should we not say, "…codes of conduct for the employees and agents of the Authority"? so we will capture all of them. The Authority may want to have codes of conduct in all the above.

Sen. Al-Rawi: True, and if I may draw the example in the planning and facilitation Act, what we did is to require the professional bodies which govern those institutions, those agencies, to actually be involved in the process. So, I am refining Sen. Vieira's point in my own way. I do not know if the Authority itself—

Hon. Cadiz: Senator, I have no problem with that.

Sen. Al-Rawi: No problem with which aspect, sorry?

Hon. Cadiz: The code of conduct for employees of the Authority and—

Sen. Vieira: Agents.

Sen. Al-Rawi: Yes, but I have a qualification to that. The qualification to that is, is one mandated to go through the professional bodies that handle that? So, if you are dealing with doctors, is the medical professional body required to be consulted too, which has its own code of conduct? If we deal with phlebotomists, are they caught there? If we are dealing with engineers—[*Interruption*]—no, in the planning and facilitation Bill we specifically, in implementing codes of conduct, had reference to the agencies that governed them because they from time to time have professional standards to implement.

Hon. Cadiz: But, is it that you cannot practise medicine in this country unless you are part of the—

Sen. Nicholas: There are specific codes of conduct that you will have to—

Sen. Brig. Alfonso: Yes.

Sen. Al-Rawi: Okay, let me paint the example. So (b) says that:

"subject to any written law, approve and ensure the implementation of policies in relation to—"—for instance, codes of conduct of the employee.

If we add agents now, and the agents include the examples that Sen. Vieira just pointed out, phlebotomists, driving instructors, doctors, whomever it may be, can we find ourselves in a situation where the Authority has one code of conduct and the professional body has another code of conduct which are not in harmony with each other?

Hon. Cadiz: Well, I do not think we can—with all due respect Senator, I do not think that could work like that. If you are a medical doctor and there is a code

of conduct that the medical profession operates under, the Motor Vehicles Authority would obviously—

Sen. Nicholas: If we go to (x).

Sen. Al-Rawi: Would obviously what? Could you complete the idea?

Hon. Cadiz:—recognize that code of conduct for that particular grouping, agency or what have you. The Motor Vehicles Authority is about vehicles. It is not necessarily about doctors and—

Sen. Al-Rawi: But it is. Later we have a clause, Senator—

Sen. Nicholas: If we go to 7(b) (x) that says:

> "such other functions and duties as are prescribed by any other written law or Regulations made under this Act."

It covers all of that, so that if it is that you are a doctor, in order for you to practise as a doctor, there are codes of conduct that you must maintain. If the Authority has regulations or codes that fall short of that, and the doctor falls short of that, then the doctor has to answer to the medical association, and therefore will not fall short of that as a practising doctor. It is more likely that the Authority will have regulations and codes that are at a higher level than the professional bodies actually asked for. So, they cannot fall short of it.

Sen. Al-Rawi: Thank you, hon. AG. It was not falling short. It was the position of where there is a conflict. I understood the hon. Minister to be about to say, "well, this Act would come into force but that there is other legislation which would govern". But, that does not take account of the position of a conflict of laws with subsequent legislation amending previous legislation constructively just by being subsequent.

Sen. Nicholas: That is being speculative and it is unlikely that there will be conflict. Because, as I said, there is a basic code of conduct that professionals will be required to adhere to.

Sen. Al-Rawi: Okay, I would not detain us in terms of a difference of opinion. I accept that we are entitled to have our own opinions. May I just ask for clarification from Sen. Vieira, through you, Mr. Chairman, the conceptualization of the agency aspect of it? Could he please repeat what the proposed amendment would look like into (ix)?

Sen. Nicholas: We made a note of it and the good Sen. Vieira suggested that "codes of conduct for the employees and agents of the Authority" be the amended version.

Mr. Al-Rawi: Thank you.

Sen. Prescott SC: Might I make some efforts to just go back a bit, please, to 7(2)(a), and just tell me if I have the language of (x) correct? Does it say "test" or "tests", 7(2)(a)?

Sen. Robinson-Regis: It should be tests.

Sen. Vieira: Tests.

Sen. Prescott SC: Does it say singular or plural?

Sen. Robinson-Regis: It should be plural.

Sen. Al-Rawi: It says singular but it should be plural.

Sen. Prescott SC: And in (xvi) and (xvii), what is the controlling verb there?

Sen. Robinson-Regis: (xvi) and (xvii)?

Sen. Prescott SC: Should it not be controlled by a verb? In other words it reads:

"Without limiting the generality of subsection (1), the Authority shall—

(a) ensure the effective administration of this Act, and in so doing, shall—

(xvi) the development of processes to evaluate compliance programmes with the Act;

(xvii) the security, integrity, and accuracy of the information"

Something seems to be missing.

Sen. Al-Rawi: And (xviii).

Sen. Robinson-Regis: No, (xviii) is okay.

Sen. Precott SC: It might be "ensure", I do not know.

Sen. Drayton: Chair, what are you thinking, it might be "ensure"?

Sen. Prescott SC: It might be. "shall develop processes". Do they want to develop the processes or ensure it is being developed?

Sen. Robinson-Regis: Ensure.

Sen. Nicholas: "ensure the development…"

Sen. Prescott SC: Okay. Is it that they "maintain the security" or they want to ensure that there is security? What happens in (xvii)?

Sen. Nicholas: You could "ensure" the security as well.

Sen. Prescott SC: And then finally in (xviii), should it not read:

"exercise such other functions and duties as are prescribed" or "established by" or "under this Act."

Sen. Nicholas: Indeed.

Sen. Prescott SC: It is very much the same way as (2)(b)(x). Yes? Thank you.

Sen. Nicholas: Agreed.

Sen. Prescott SC: And since it has been mentioned, and I am sure we are going to come back to it when we are dealing with clauses 26 and 22, that reference to collective bargaining and so, I had gone to some length in dealing with it in my contribution. I think we need to spend some time on it when we come to those clauses, please? The substantive clauses. Thank you, Chair.

Sen. Robinson-Regis: May I ask a question in relation to 7(2)(a)(xi), "issue, suspend, revoke or cancel any driver's licence" Do we need to specify in accordance with the provisions in this Act? Because, the court also has a similar ability.

Sen. Prescott SC: Put "for the purposes of this Act".

Sen. Robinson-Regos: Yes, I think we need to specify because it is not a general ability to suspend or cancel.

Sen. Nicholas: Sure, "for the purposes of this Act".

Sen. Robinson-Regis: Yes.

Sen. Prescott SC: And begin too by saying that "the Authority shall for the purposes of this Act".

Sen. G. Singh: You want to make sure that the Chairman is aware of all the changes that you are accepting.

Mr. Chairman: Yes, but we need to get all the changes whilst we are saying the thing. We need to ensure that it is in keeping with what there is. So, after you have accepted the proposals or recommendations from the various Senators, you would read it out to us that we could have it clearly here and we very well will

have to go with, instead of 7 and 8, go with clause 7 because of the amendments that there is, so we will separate it from 7 and 8 as we had first suggested.

Sen. Nicholas: Yes, Mr. Chairman.

Sen. Prescott SC: So, we are continuing from Sen. Robinson-Regis, could we not start 7(2) by saying, "For the purposes of this Act, without limiting the generality of"?

Sen. Nicholas: That is how I actually adopted it.

Sen. Prescott SC: Yes? Thanks.

Sen. Nicholas: So, shall I go through?

Mr. Chairman: Yes, let us go through.

Sen. Alfonso: So, clause 7(2) shall read:

"For the purposes of this Act, without limiting the generality of subsection (1), the Authority shall—".

Mr. Chairman: This goes up here?

Sen. Nicholas: Clause 7(2)(ix)—

Sen. Al-Rawi: AG, before you call the amendments, forgive me for interrupting and thanks for allowing me to. The word "ensure"—

Mr. Chairman: Senator.

Sen. Al-Rawi: Yes, Sir.

Mr. Chairman: It is in keeping with what he is presently reading now, would you like him to give to us the amendments that have been agreed upon, and if there is a concern thereabout you will be aware as to—

Sen. Al-Rawi: If I may just point him to the word "ensure" in (a). It starts with "ensure", so how does that factor the considerations in roman—

Sen. Robinson-Regis: It is still wrong,

Sen. Al-Rawi: Yes.

Sen. G. Singh: Nah, it is still wrong.

Sen. Al-Rawi: So it is "ensure—ensure"?

Sen. Robinson-Regis: No, if you read the entire thing, ensure the others and in so doing shall.

Sen. Al-Rawi: Okay, double. I just wondered if the attempt was to try and catch it in the top of the chapeau as opposed to the end. Okay, thank you.

Sen. Nicholas: We can deal with it down there.

Sen. Al-Rawi: Okay.

Mr. Chairman: Go ahead.

Sen. Nicholas: Clause 7(2)(a)(ix), will read:

"regulate and monitor the use of all vehicles;".

Mr. Chairman: "regulate and monitor the use of…"?

Sen. Nicholas: "…all vehicles;".

Mr. Chairman: So, you are deleting "maxi-taxis"?

Sen. Nicholas: Yes.

Mr. Chairman: All vehicles.

Sen. Nicholas: Delete and replace.

Sen. Al-Rawi: We do not need the word "all" of vehicles?

Sen. Vieira: We do not need the word "all".

Sen. Nicholas: Okay. So, "regulate and monitor the use of vehicles;". Clause 7(2)(a)(x), "conduct driving tests"—plural—"pursuant to section 54;". Clause 7(2)(xvi), "ensure the development…", so we are inserting "ensure" at the beginning. [*Interruption*] Clause 7(2)(a)(xvii), insert "ensure" at the beginning of that clause.

Mr. Chairman: Where it reads, "the security, integrity…"?

Sen. Nicholas: Yes, so it will read, "ensure the security…".

Mr. Chairman: Yes.

Sen. Nicholas: Clause 7(2)(a)(xviii) shall read, "exercise such other functions and duties as are prescribed…"

Mr. Chairman: "As prescribed"?

Sen. Nicholas: "…as are prescribed under this Act,", and continue.

Mr. Chairman: That is it? That is (a), you are going to (b)?

Sen. Nicholas: Clause 7(2)(b)(iv), we remove the "a" and start with "codes"—plural—"of conduct for the employees and agents of the authority;".

3.15 p.m.

Sen. Vieira: AG, I am wondering, is "codes of conduct" the same as a "code

of practice" and whether codes of practice might not be preferable. Just a thought.

Sen. Al-Rawi: Or language in the alternative as well. I am not sure from an interpretation—

Sen. Vieira: Because my understanding, based on what the *Legislative Drafting* from Thornton says:

> Codes of practice offer convenient technique for the prescription of detail requirements or guidance as to the manner in which the statutory power or duties to be carried out or a statutory discretion exercised. Such codes may be authorized and regulated by a foreign written law.

Sen. Nicholas: Seeing that you have it in your hand, does it speak to codes of conduct?

Sen. Vieira: No, and I would think that a code of conduct is more about behaviour, whereas a code of practice is what this is really geared to.

Sen. Nicholas: Agreed. Very well. Codes of practice.

Sen. Prescott SC: Somebody whispered that we should use it in the alternative. Was it you, Sen. Al-Rawi?

Sen. Al-Rawi: Yes, Sir, I think it was me.

Sen. Prescott SC: Because there may be bodies that already have established codes of conduct.

Sen. Nicholas: Now, there is this issue, and permit me, we would like to be able to address the codes of conduct from an HR point of view for the employees. So if it is suitable, "codes of conduct and practice".

Sen. Al-Rawi: We are suggesting that. Yes, please. Thank you. Does "or" not include "and" or "and" includes "or"? No, from the Interpretation Act, seriously. [*Crosstalk*]

Sen. Nicholas: Yeah, "and". That is it for—

Sen. Al-Rawi:—"and" includes "or".

Sen. Nicholas: That is it for—

Sen. Prescott SC: Mr. Chairman, through you, before we close on that, have we agreed that we will return to (vi), (2)(b)(vi)?

Mr. Chairman: Before we return, just before we return, could I have the last correction that was made as it relates to—you had codes—

Sen. Nicholas: Codes of conduct and practice—

Mr. Chairman: So you are leaving conduct?

Sen. Nicholas:—for the employees, yes—

Mr. Chairman: So conduct would remain and plural—

Sen. Al-Rawi: And insert after conduct—

Sen. Nicholas: Codes of conduct and practice for the employees and agents of the Authority.

Mr. Chairman: I have the others right. Thank you. I just wanted the addition because I had struck off conduct, based on the first arrangement. Go ahead.

Sen. Nicholas: That is it as far as amendments are concerned for those two.

Sen. Prescott SC: I was inviting an assurance from the AG that it may become necessary to return to (b)(vi), and if you would permit me when we deal with clauses 26 and 22 to perhaps suggest—

Sen. Nicholas: Sure.

Sen. Prescott SC: Thank you very much.

Sen. Al-Rawi: May I ask a question please in relation to (b)(i) that is on page 9?

Mr. Chairman: Hold on, hold on, we are speeding. I would like you all to direct the question first so that the Chair would be able to understand exactly what we are doing.

Sen. Al-Rawi: The question was to you, Mr. Chairman.

Mr. Chairman: Therefore the question that was posed by Sen. Prescott, has that been cleared?

Sen. Al-Rawi: Yes, Mr. Chairman.

Mr. Chairman: Okay, go ahead, Senator.

Sen. Al-Rawi: Yes, Sir, thank you very much, Mr. Chairman. I was asking about 7(b)(i):

"the finances, property of the Authority, the securing of contracts..."

What is intended by the word "securing"?

Sen. Nicholas: Would you prefer "awarding".

Sen. Al-Rawi: No, "awarding" may not necessarily include litigating or rescinding or, I do not know what is intended here. I was not quite sure about the expression, "the securing of contracts".

Sen. Nicholas: It would be engaging.

Sen. Al-Rawi: It was specifically because of the goods and services position there. I was not sure what aspect of contract law you want it to—

Sen. Nicholas: That could be removed. Mr. Chairman—

Mr. Chairman: Please, yes go with—

Sen. Nicholas: We propose—

Sen. Al-Rawi: But before we do that, AG, if I may invite through you, Mr. Chairman, Sen. Vieira and other Senators, Sen. Prescott, SC and all, do you think that there is a need to have a specific power to contract? Now, I understand by establishment of a body corporate under the Interpretation Act that there are wide powers given just by being a body corporate. So long as that caveat is in place, and I am stating it for the record, that it is our intention that it is that we do not limit any powers or body corporate by removing contracts per se. In other words then, I am giving you a *Pepper v H*art statement now. Is that okay?

Sen. Nicholas: It is definitely the policy position that we would like to have the Authority—[*Interruption*]

Sen. Al-Rawi: And that it is given by virtue of the Interpretation Act. Thank you, hon. AG.

Sen. Drayton: Chair—

Mr. Chairman: Yes, please.

Sen. Drayton: I would just like to get some clarification with respect to 7(2)(a)(xiii), which said:

> "Recommend the prescription for vehicles with safety equipment to be used by drivers and passengers;"

Is it they are prescribing safety equipment? Just that the language seems a little bit clumsy.

Sen. Al-Rawi: I wonder what it means.

Sen. Drayton: And then—

Sen. Prescott SC: Clause 7(2)(a)(xiv).

Sen. Drayton: Clause 7(2)(a)(xiv)? No, that was clause (xiii) and then when we go to (xiv) it says:

"ensure the development and implementation of motor vehicle policy…"

This policy you are referring here to—specifically, what do you mean here? I thought that the Minister develops policy and the Authority is implementing. Or is it referring to policies governing the operations of the Authority? Could you just clarify what is meant?

Hon. Cadiz: Chairman. When you talk about the implementation of motor vehicle policy it would be, for instance, where there is a transport board, for instance, right now that determines the size of trucks, where those trucks can go, what bridges they can cross, the roads they can use, et cetera. Can vehicles of a certain size drive within the municipality of one of the cities, and therefore when we speak of implementation of motor vehicle policy it would be along those lines—

Sen. Drayton: Who is developing the policy?

Hon. Cadiz: The Motor Vehicles Authority, because that would be a specialist act to do that. The Minister would not have the technical expertise to do that. It might come as a recommendation, but the Motor Vehicles Authority will have that expertise.

Sen. Drayton: And number (xiii), the recommended—

Hon. Cadiz: The "recommend…prescription". The terminology is an issue?

Sen. Drayton: It seems a bit clumsy, I am not too sure. [*Crosstalk*]

Hon. Cadiz: I think it—

Sen. Al-Rawi: Where did the language come from?

Sen. Prescott SC: Have they prescribed the safety equipment? [*Crosstalk*]

Hon. Cadiz: Yes, I think it would be, basically, the recommended use of different safety equipment as and when. You know, so in other words the country will adopt, for instance, like the issue of seat belts, not because manufacturers put seat belts in their car, the country will have to pass law, they will have to adopt that and say that is—

Sen. Drayton: So they will be prescribing that safety equipment.

Hon. Cadiz: That safety equipment to say that all vehicles now will have to have, for instance, airbags, or all vehicles will have to have five airbags—

Sen. Al-Rawi: So to work it out—

Hon. Cadiz: Rather than just a single airbag or something like that.

Sen. Al-Rawi: So to work it out, such things as may be prescribed would happen under regulations. Can we find some better language to deal with—what you are really doing is that you are recommending standards and I do not know what the—so the mischief is you want to give the Authority, from time to time, the power to implement such things as it considers necessary. And the manner in which we implement it is regulations.

Hon. Cadiz: Yeah.

Sen. Al-Rawi: So it is purely now a matter of conveying what we intend in the language. The language as it stands is:

> "recommend the prescription for vehicles of safety equipment to be used by drivers and passengers…"

So it is, we are really saying, "recommend safety equipment as may be prescribed to be used by drivers and passengers". Is that what was intended?

Sen. G. Singh: Yeah, it is clear to me that is what was intended.

Sen. Al-Rawi: Perhaps we could find—

Hon. Cadiz: We would clean it up.

Sen. Prescott SC: Repeat, Faris.

Sen. Al-Rawi: "Recommend safety equipment as may be prescribed." Or "recommend safety equipment to be used by drivers and passengers as may be prescribed."

Sen. G. Singh: No, you want to recommend the safety equipment for vehicles.

Sen. Al-Rawi: Sure, but the word "vehicle" should be there as well. So "recommend"—

Sen. G. Singh: To utilize—

Sen. Al-Rawi:—"safety equipment to be used by drivers and passengers"—of vehicles or, for vehicles? Now, the key is where do we stick in vehicles?

Sen. Prescott SC: I like "of vehicles".

Sen. Al-Rawi: Of vehicles.

Sen. Prescott SC: So the emphasis is on the safety of the passenger.

Sen. G. Singh: Yeah.

Sen. Prescott SC: When using the vehicle.

Sen. Al-Rawi: Sen. Prescott, could you help me here?

Sen. Prescott SC: Um-hmm.

Sen. G. Singh: You see, the Authority will regulate and monitor vehicles. So the safety equipment will be located in the vehicles for the safety of the passengers and drivers. So it is really the vehicular aspect you want to focus on.

Hon. Cadiz: Well then, Senator, for instance, like a child-restraining chair that is not part and parcel of the manufacturer of the vehicle. It is an add-on afterwards.

Sen. Al-Rawi: Sure, understood, we are just trying to get the language, hon. Minister, through you, Mr. Chairman.

Sen. Nicholas: Mr. Chairman, can we agree, therefore, that the language would read: "recommend safety equipment for vehicles to be used by drivers and passengers as may be prescribed."

Sen. Al-Rawi: Perhaps, "recommend safety equipment as may be prescribed".

Sen. Nicholas: To be used.

Sen. Prescott SC: May I again. Is it the "safety equipment in the vehicle" or the "safety equipment that the passenger must use"? There are some parts of a vehicle that some drivers ignore altogether, and they may well be for their safety. Are we proposing to recommend that you use that safety equipment that is found in your vehicle? Or are we saying you must use certain safety equipment like, for example, if we were able to say it, children under the age of five you must have a helmet. That little safety equipment will be external to the vehicle but it is meant to protect the passenger. Which are we after: use the prescribed equipment in the vehicle or use safety equipment that the Authority prescribes for your own safety?

Sen. Nicholas: Well for use in the vehicle.

Sen. Prescott SC: The thing that comes with the vehicle.

Sen. Nicholas: Not necessarily the thing that comes with the vehicle. We would want to include things like the child safety seat.

Sen. Prescott SC: Yes.

Sen. Nicholas: And if it comes to that, the helmet.

Sen. Prescott SC: So it is the protection of the passenger?

Sen. Nicholas: Indeed.

Sen. Prescott SC: So it is to recommend safety equipment for use by drivers and passengers while in vehicles.

Sen. Nicholas: Well, we will want—

Sen. Al-Rawi: We want to catch the vehicle and person.

Sen. Nicholas: Yes.

Sen. Al-Rawi: So we are looking to do it broad enough to catch both. So we were just looking—

Sen. Nicholas: It would also include things like seat belts. It would also include things like airbags, but it would, in circumstances where you have children you would want to specify that they—

Sen. Prescott SC: Yes, so we are saying that we are recommending safety equipment for drivers and passengers while in vehicles. Whether they be accessories to the vehicle or introduced by the passenger and driver.

Sen. Al-Rawi: Or drivers and passengers of vehicles.

Sen. Prescott SC: No, no, well, sorry, yes.

Sen. Nicholas: So we would recommend safety equipment to be used by drivers and passengers.

Sen. Prescott SC: I would say in motor vehicles.

Sen. G. Singh: As may be prescribed.

Sen. Nicholas: As may be prescribed.

Sen. Prescott SC: Once you are happy.

Sen. Nicholas: Once you are happy.

Sen. G. Singh: No, make sure the Chairman is happy.

Sen. Nicholas: Then let us see if the Chairman is happy.

Hon. Senator: Yes, Sir.

Mr. Chairman: So could you read what—

Sen. Al-Rawi: No, sorry, hon. Senator, (xiii)

Mr. Chairman: My mistake (xiii).

Sen. Nicholas: "Recommend safety equipment to be used by drivers and passengers in vehicles as may be prescribed."

3.30 p.m.

Sen. Prescott SC: No. "Recommend safety equipment as may be prescribed for use by drivers and passengers in motor vehicles."

Sen. Al-Rawi: I like that. Very elegant, Sir.

Sen. Robinson-Regis: Mr. Chairman, may I ask a question, please, in relation to this same amendment before it is finalized?

Mr. Chairman: Please do.

Sen. Robinson-Regis: Thank you. I would just ask my colleagues to look at page 62, Part IX, which talks about the safety and other requirements of a motor vehicle, so that what we do here in this clause relates properly to what we have in the body of the legislation at Part IX, under the rubric "Safety and other Requirements of a Motor Vehicle". So I think we need to look at that in relation to what we put up front.

Sen. Nicholas: The clauses at page 62 in Part IX would outline specifically—

Sen. Robinson-Regis: No, I understand what it is, but I am saying if we do not describe it properly here, then we are going to have a problem when we come to the actual use of that in this part. So I think the construction that Sen. Prescott gave would, perhaps, most properly capture—

Sen. Nicholas: Oh, so you are happy with that.

Sen. Robinson-Regis: No, I am just saying that we just need to make sure, in cross-checking, that we are capturing the entire thing because we also talk in this section about motorcycles and safety helmets. So we need to make sure that we are capturing everything.

Sen. Nicholas: I think we are comfortable that it does. So, Mr. Chairman, just for the confirmation.

Mr. Chairman: Minister, could we go back on (xiii)?

Sen. Nicholas: "Recommend safety equipment as may be prescribed to be used by drivers and passengers"—

Mr. Chairman: So "equipment" is being deleted?

Sen. Nicholas: No. "safety equipment as may be prescribed to be used by drivers and passengers in vehicles."

I think you have dealt with all of them now. Clause 7(2)(b), Mr. Chairman, (i), deleting "the securing of contracts". So it would read:

"The finances, property of the Authority, the procurement of goods and services and other administrative activities and affairs of the Authority."

All we are doing is deleting "the securing of contracts".

Mr. Chairman: Yeah. That is it there now for 7? Are there any more amendments to clause 7?

Sen. Robinson-Regis: Did we do the code? 7(b)(iv), the code of conduct?

Sen. Nicholas: Yes, we dealt with that.

Mr. Chairman: We did that.

Sen. Robinson-Regis: Oh, you did?

Sen. Nicholas: Yes.

Sen. Robinson-Regis: Okay.

Mr. Chairman: All right. The question is that clause 7, as amended reads as follows—we start from clause 7(2):

Insert "for the purposes of this Act". So it reads

"Without limiting the generality of

subsection (1) the Authority shall—

(a) ensure the effective administration of this Act, and in so doing shall"—

So that is what you insert there. Then you go to (ix):

"Regulate and monitor the use of vehicles."

You are deleting the word, "maxi-taxis" and you are adding "vehicles".

"(x) Conduct driving tests"—insert "s" here—"pursuant to section 54"—plural.

Then you go to (xiii):

"Recommend the safety"

You are deleting "these prescriptions" and you recommend "the safety equipment as may be prescribed…"

Sen. Nicholas: Mr. Chairman, if I may. You are deleting "the prescription for vehicles of".

Mr. Chairman: So it reads as follows:

"Recommend the safety…"

Sen. Nicholas: Not "the safety", "recommend safety".

Mr. Chairman: "Recommend safety equipment as may be prescribed to be used by drivers and passengers."

Sen. Nicholas: "in vehicles."

Sen. Dr. Singh: Excuse, Mr. Chairman. If I may just ask, pertaining to what Sen. Robinson-Regis had said about it relating to the section at page 62, where it says—the heading of that is "Safety and Other Requirements of a Motor Vehicle", why can we not just say: "Recommend the safety and other requirements of a motor vehicle", there; or "Recommend the safety requirements of a motor vehicle"? Because it is not only what is being used by the driver and passengers because when you purchase the car, you require that it has the five airbags in it. All are not in use by a driver or passenger. All the seat belts are not in use at any given time. So you want to say that it is actually the safety requirements for the motor vehicle particularly. So that eliminates use of prescription and everything.

Mr. Chairman: Sen. Vieira, on the same subject?

Sen. Vieira: On the same point. I find that there was a tendency to be a little prolix, and I would have cut straight to the chase. In fact, I would have said, "Prescribe safety equipment for vehicles". Because why are you recommending? Recommending to who? You are the Authority. You would prescribe. This is the safety equipment and if you say, "prescribe safety equipment—"

Sen. Dr. Singh: But it is not just equipment, it is requirement. So it is not just having the seat belt, but wearing it.

Sen. Vieira: So "prescribe safety equipment and requirements for vehicles", or the requirements for safety.

Sen. Dr. Singh: I think "requirements" will include "equipment", rather than equipment including requirements.

Sen. Vieira: Yes. And "doh" worry for driver and passengers and all of that.

Sen. Al-Rawi: I think Sen. Dr. Singh missed his calling in law. [*Laughter*] Thank you. Excellent submission.

Mr. Chairman: So, Attorney, you want to accept what is being recommended?

Sen. Nicholas: Yes, please, and if the goodly hon. Senator would repeat the amendment.

Sen. Dr. Singh: Yes. I would suggest that it says:

"Recommend the safety requirements for a motor vehicle."

Mr. Chairman: I thought "recommend" was deleted.

Sen. Dr. Singh: I think the point: "Prescribe the safety requirements—"

Sen. G. Singh: I take the point made by Sen. Vieira, Chairman, we eliminate "recommendation". Who you recommending to? You are the Authority with the power; prescribe.

Sen. Dr. Singh: Right, you could prescribe the safety requirements.

Mr. Chairman: Continue, Dr. Singh.

Sen. Dr. Singh: Yes. "Prescribe the safety requirements for a motor vehicle" and that encompasses all of them together.

Mr. Chairman: For "all vehicles" or "vehicles"?

Sen. Nicholas: "for vehicles".

Sen. Robinson-Regis: Could I ask a question? I do not know if I missed—is the definition of vehicle—does it include motorcycles?

Sen. Nicholas: Yes.

Sen. Robinson-Regis: It will. All right.

Sen. Prescott SC: Does "equipment" differ from "requirements"?

Sen. Dr. Singh: Yes.

Sen. Prescott SC: If it does, should we not have both?

Sen. Dr. Singh: You may be required to have equipment. The requirement is not just the equipment, it is to use it as well. So the word "requirement" covers "equipment".

Sen Al-Rawi: I think it could.

Sen. Prescott SC: And I had made the point about whether the things that are introduced externally—from the externals—such as a helmet for babies, does that come within—

Mrs. Drayton: If I may, Chair—

Mr. Chairman: Just a minute. Allow Sen. Prescott to finish and then I would come to you.

Sen. Prescott SC: I had mentioned that there were things that are brought into the vehicle which improve the safety for passengers, and I used the example of a child. We may at one time want to say that a child of tender years should be fitted with a helmet to protect it. That is something that will not come as a requirement for the vehicle or equipment, but it must be brought in and we may be advanced enough to think that such a child is particularly at risk; introduce the idea of the child being helmeted. So I did not want that paragraph to focus on the requirements of the vehicle, but that the Authority should have the power to prescribe safety equipment for the passenger notwithstanding that it does not come as an accessory in the vehicle. If I am not clear, let me try again.

Sen. Nicholas: You are clear.

Sen. Prescott SC: Good.

Sen. G. Singh: So how do you incorporate it?

Sen. Nicholas: That is the next question.

Sen. Robinson-Regis: Could I just—

Mr. Chairman: Please, please, I have—please. After Sen. Prescott has completed, I will have next, Sen. Drayton.

Sen. Prescott SC: So that I would have said:

> "Equipment and requirements as may be prescribed for use by drivers and passengers in vehicles."

So you start by focusing on the safety of the driver and the passenger, notwithstanding that the equipment or requirement is not part of the vehicle, but is required to be introduced. If you recall, there was a time when we did not have seat belts installed in cars, but we were saying to people, "You must install a seat belt". It would not have been equipment or requirements that come with the vehicle, but it was introduced externally.

Mr. Chairman: But if I may ask, are there vehicles that come to Trinidad and

Tobago now without having seat belts?

Sen. Prescott SC: No, Sir.

Sen. Al-Rawi: An antique may.

Mr. Chairman: Antiques?

Sen. Prescott SC: I do not know. But all come without helmets for babies, and one day somebody is going to recommend that babies, because they have eggshell skulls, should wear helmets or be helmeted.

Mr. Chairman: So would that not be the onus of the parents to ensure that?

Sen. Prescott SC: It certainly will be, but the law sometimes has to step in to ensure that parents understand what their role is. So we say: "Prescribe safety equipment for use by drivers and passengers in vehicles." If your vehicle does not have it, get it. That is what I am proposing.

Mr. Chairman: You want to answer or you want to hear Sen. Drayton's point before you answer, while you are thinking?

Sen. Nicholas: I would like Sen. Prescott to hold his draft amendment, and then we would hear Sen. Drayton.

Mr. Chairman: Sen. Drayton, please.

Sen. Drayton: All right. I think Sen. Al-Rawi alluded to it. This is an Authority and the Authority is developing policy. The Authority will ensure the implementation of its policy. So I just wondered why we are getting involved at the level of the Authority with pretty much operational words that would be in the regulations. So that if the Authority is developing policies and ensuring the implementation of, if you want to use "the requirements" or whatever, for the safety of passengers, flowing from the policy are the regulations that would define things like equipment. So I just wondered why at the level of the primary law and at the Authority, we are dealing with what are pretty much the operational issues and not the policy—developing policy to guide the safety.

Mr. Chairman: I think it is a very salient contribution you have made because I was thinking in my mind also: why are we taking away some of the powers and authority of the Authority by wanting to ensure we insert every single thing within the Bill of itself, whilst that could be done by the Authority? So I personally think you have a very salient point.

3.45 p.m.

Sen. Robinson-Regis: On that point and the point that was raised by Sen. Prescott, under the same "Safety and Other Requirements of a Motor Vehicle"—

Mr. Chairman: Page 62?

Sen. Robinson-Regis: Yes, page 62, clause 112, it talks at clause 115 about the child using a rear-ward facing child restraint and so on, and then it goes on further to indicate that:

> "(2)The Minister may by Order prescribe the type of child restraint and booster seat referred to in subsection (1)."—which is subsection (1) of this 115.

And it may be that the concern that both Sen. Prescott and Sen. Drayton raised may be handled by 115(2), which says:

> "The Minister may by Order prescribe the type of child restraint and booster seat referred to in subsection (1)."

That is why I am suggesting that in crafting this first part, we examine the body of the Bill before us because it may give us an indication of what we need to say at the first part here in 7, because the Bill itself goes in to a certain amount of detail as to what is meant by safety equipment and safety requirements.

Sen. Nicholas: Mr. Chairman, if I may? Whilst I fully understand the very good points made by both Sen. Drayton and Sen. Robinson-Regis, 7(2)(a)(xiii) deals with policy. It deals with prescribing future safety equipment, whereas the clause at page 62, Part IX, deals with already established current technology, and therefore, they are indeed separate.

Sen. Al-Rawi: Mr. Chairman, may I? The purpose of this discussion is very useful. What we are describing is a power. So that if there is a development of future technology or future requirement, that the Authority has the prescriptive power to do something about it which could then come in via regulations. So to push something through a regulation you have to have the power to do it, lest somebody meet you with the argument, well you were functus, you had no power, and therefore, you are ultra vires the process. So I think that all that we are looking for, and which is where I was quite attracted to Sen. Kriyaan Singh's position, is suitably crafted language to empower for future technologies and prescriptions that will come from time to time so that the Act continues to speak, and therefore, continues to be operative.

So I was very interested—this is to deal with Sen. Drayton's very important observation. It is not so much the functionality that we are describing now, but it is just simply allowing for a power to exist to do something in the future which would be pushed through the regulations, but there is, of course, very useful measuring all that Sen. Drayton had said. So perhaps we could look at the language that would allow us to have the authority keep acting, and I think that is perhaps Sen. Prescott's concern there.

Sen. Nicholas: And this is where, Mr. Chairman, I want to reintroduce Sen. Prescott. Because whilst Sen. Singh, his intervention was excellent, I think Sen. Prescott goes that step further that deals not only with the equipment of the vehicle, but equipment that can be brought in to the vehicle and hence I call upon you to read your amendment as you would have stored.

Sen. Prescott SC: You want me to revisit my memory?

Sen. Nicholas: Indeed.

Mr. Chairman: The amount of things that have been said. [*Laughter*]

Sen. Prescott SC: I think I said:

"Prescribed equipment and requirements"—

Hon Cadiz: Safety equipment.

Sen. Prescott SC: Thank you very much—

"safety equipment and requirements to be used by drivers and passengers in motor vehicles;"

Sen. Al-Rawi: Which means that we cannot maintain a motorbike.

Sen. Prescott SC: I did think of that and then I thought that I might sound pedantic, but I am happy that you—

Mr. Chairman: Driver safety—

Sen. Prescott SC: "…drivers and passengers of motor vehicles;"

Sen. Nicholas: Can I just say not motor vehicles, but vehicles, please?

Sen. Prescott SC: Thank you.

Mr. Chairman: Are there any other suggestions on (xiii), or we are in agreement with what has been stated by Sen. Prescott, which reads as follows:

"prescribe safety equipment and requirements to be used by drivers and passengers in vehicles;"

Sen. G. Singh: Chairman, make sure you get it right for the purposes of the record.

Mr. Chairman: "prescribe safety equipment and requirements to be used by drivers and passengers in vehicles;"

Hon. Senator: It should be "of".

Mr. Chairman: "of vehicles".

Sen. Al-Rawi: Because you cannot be in a motorbike.

Mr Chairman: "of vehicles."

Sen. Al-Rawi: You could be, but it will not be a very pleasant situation.

Mr. Chairman: So that will take care of (xiii). We go to (xvi):

Insert the word "ensure" before "the development of processes to evaluate compliance programmes with the Act;".

Then we go as follows to (xvii):

Insert the word "ensure" before "the security, integrity, and accuracy of the information contained in the database of the Authority;"

And then (xviii):

After the word "duties" insert the words "as are prescribed".

So it reads as follows:

"exercise such other functions and duties as are prescribed under this Act, Regulations or any other written law;"

Then (b)(i):

Delete the words "the securing of contracts".

So it reads as follows:

"the finances, property of the Authority and the procurement of goods and services and other administrative activities and affairs of the Authority;"

Then you go to (iv):

Delete the word "a" and you have "code of conduct and practice for the employees and agents of the Authority;"

Question put and agreed.

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

Hon. Cadiz: Chairman, could I suggest that we go back to the circulated amendments for clause 4 to complete that with the definitions?

Clause 4 reintroduced.

Mr Chairman:

A. Delete the definition of "antique vehicle" and substitute the following:

"antique vehicle" means a vehicle that is not less than twenty-five years old and restored to approximately its original condition;

B. Insert in alphabetical sequence the following definitions:

"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 impairment to the extent that—

(a) the person is unable to propel himself without the aid of a wheelchair or walker, or a combination of both or a crutch, cane, leg brace or leg prosthesis;

(b) the person—

(i) requires the daily use of a device to assist with breathing;

(ii) has a significant cardio-pulmonary condition, which results in severe shortness of breath with minimum physical activity; or

(iii) has a severe neuro-muscular or skeletal condition, and because of any of the conditions described in paragraph (i) or (ii) is limited mobility to 50 metres or less in outdoor weather conditions; or in mobility to 50 metres or less in outdoor weather conditions; or

(c) the person is visually impaired;

"medical practitioner" means a member of the medical profession registered under the Medical Board Act and for the purposes of this Act includes a phlebotomist;

"traffic" includes vehicles, pedestrians and animals being ridden, driven or led on a road;

"vehicle" means every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land and for the purposes of this Act includes—

(a) agricultural tractor;

(b) ambulance;

(c) antique vehicle;

(d) chartered vehicle;

(e) commercial vehicle;

(f) freight passenger vehicle;

(g) hiring car;

(h) hired vehicle;

(i) industrial tractor;

(j) maxi-taxi;

(k) motorcycle;

(l) motor-driven cycle;

(m) motor omnibus;

(n) motor vehicle;

(o) private motor vehicle;

(p) private school bus;

(q) public service vehicle;

(r) rented vehicle;

(s) tractor; and

(t) wheel tractor

Sen. Prescott SC: Pardon me. In the version that I have, there is a definition of "vehicle" and it reads:

"means every description of carriage..."

I do not know what the word "description" represents there.

"or other artificial contrivance used, or capable of being used, as a means of

transportation on land and for the purposes of this Act includes—"

I am happy with the desegregation of the various types of vehicles. I note the absence of trailer and agricultural trailer and, more importantly, it does seem to me that we could say as against each of these sub-definitions something that might help us to be sure. So, for example, we could say:

"…includes—

(g) hiring car which is held out for hire to carry no more than ten passengers;"

You could take up some of what already exists and put it against those individual classifications. I doubt we are returning to where we were. Maybe I should say this to appease the Minister.

As it stands, it appears to me that there will be seldom any difficulty in determining which of these categories you fall under because I imagine the owner of the vehicle appears before the licensing officer intent on convincing him that this is a hiring car and not a maxi-taxi, and they may be able to resolve it without reference to a definition.

Mr. Chairman: Sen. Prescott, I got the distinct feeling that when we suspended the sitting to have those things amalgamated with the amendments there that you were part of it?

Sen. Prescott SC: Oh, I was very much part of it, Sir.

Mr. Chairman: But you had left?

Sen. Prescott SC: But I was only one part of it. I was only one part of it, but let me make a different approach. I am suggesting, through you, Chair, that after the words "wheel tractor" we say, "and any conveyance designed or fitted for the purpose and which is approved by the Authority for use as such vehicle".

So that in the event that the owner of the vehicle is having difficulty persuading the Authority that this thing that he is looking at is in fact a private school bus and not a private motor vehicle, the Authority has the power to say to him, "I am approving it for use as a private school bus and not a private motor vehicle". Have you caught me?

Sen. Nicholas: Sen. Prescott, the individual definitions of each of these would remain.

Sen. Prescott SC: Oh, they do?

Sen. Nicholas: Yeah.

4.00 p.m.

Sen. Prescott SC: Good. Well, that is excellent. And so all I need to do is to ask you to add after the words "wheel tractor", the following which I will dictate for your consideration:

> …and any conveyance designed or fitted for the purpose and which is approved by the Authority for use as such vehicle.

Then all that will be left is for you to tell me what it means when it says vehicle means every description of carriage. I have not heard that phrase used and I just thought you could assist me. What do those opening five words mean?

Mr. Chairman: Hon. Senators, I want to take the opportunity to state whilst yes, you have been allowed to come back, but I have just been reminded that the Standing Orders say that whenever you have deferred a particular clause of which you did, then you come back to do at the end. When I thought that as I allowed that we would have been able to conclude what was done based on the hours that we took, apparently it is not yet totally concluded so therefore, could we continue with 8 and whatever amendment has to be made, we will come back.

Sen. Al-Rawi: I wish to support the Chairman in his decision. Thank you, Mr. Chairman.

Mr. Chairman: Thank you for your cooperation.

Clause 4 deferred

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Sen. Dr. Mahabir: Okay, well, on clause 8, two recommendations on 8(b) and 8(d). On 8(b), it states that:

> "The Authority may, in carrying out its functions—
>
> (b) charge and collect such fees…"

I would prefer to see the word "impose and collect such fees", because to charge automatically means you are collecting. So if we are imposing and collecting such fees, I think that is what I think we want the Authority to do. To impose and levy a fee and then to collect it. So 8(b), I would prefer to see a change of the word "charge" to "impose".

And then on clause 8(d), I think the wording is a bit cumbersome and I would prefer—

Mr. Chairman: Thank you, Senator, but could we have the consensus before we go to the other one. Let us complete it.

Sen. Dr. Mahabir: Okay, so you are going on (b) before we go on (d)?

Mr. Chairman: Let us hear what is the thinking of the—

Sen. Nicholas: We would have no difficulty with that.

Sen. Dr. Mahabir: Imposing the fee, yes, okay, thank you very much.

Sen. Al-Rawi: I had a question on "impose" versus "charge", though. Genuinely, it arises insofar as a charge is something which is collectable, I am not sure about an imposition. So I did not know if the "impose" and "charge" dichotomy related to how we recovered.

Sen. Vieira: Yes, I was tending to agree with Sen. Al-Rawi because we have to be careful with terms of art that have a particular meaning but I did not want to—I was willing to hear my friend.

Sen. Dr. Mahabir: I will explain why I would prefer to see the word "charge" because we do have "collect" as well. You see, when you have impose, you say you impose it, that "impose" in my mind means that you are going to go through a process of determining the fee, assessing it and you impose it. Subsequent to the imposition, you then collect it because the law says it could impose and then collect. So there would have to be a process of determining before you collect, but the law does make provision for collect as well. So unless it is a legal problem, I would be happier with impose and collect.

Sen. Vieira: But the problem is that you can have a difference between fees and charges, so I would have gone with charges and fees. But I had another point on clause 8.

Mr. Chairman: So, could we complete, I mean, discuss and agree on a consensus on (b) first then we will go to the others? Sen. Vieira?

Sen. Vieira: I would leave (b) as is.

Sen. Nicholas: Whilst we were leaning on the imposition of the fines for clarity, the Authority does not actually have the legal authority to impose. The legal authority comes from elsewhere and the Motor Vehicles Authority can only charge.

Sen. Al-Rawi: Exactly my point of view.

Sen. Nicholas: And a good point at that, Sen. Al-Rawi.

Sen. Dr. Mahabir: Just on a point of clarification, is the Motor Vehicles Authority going to assess fees? Is it going to determine the fees or is that going to be determined by the Ministry of Finance and the Economy? Or the Ministry of Finance and the Economy determines, so it is just—it is a collection agency? All right?

Mr. Chairman: Sen. Vieira, please.

Sen. Vieira: Thank you, Chair. As we are looking at powers of the Authority and coming in the wake of—in the debate about the whole thing about education and also about online services, I was just wondering whether we could have included a new (b) or a new (c) and (d). So I was suggesting:

"The Authority may, in carrying out its functions",

Establish a framework for the electronic management of its database, charges, fees and services;

And (d):

Promote road safety education.

So you would just have the statutory authority and basis to do these things if and when possible.

Sen. Nicholas: Sen. Vieira, it is being suggested that at 8(d) where it speaks to:

"Do such things as may be necessary or convenient for, or in connection with, the performance of its function;"—would deal with upgrades.

Sen. Vieira: I know (d) is a catch-all and yes, these two suggestions I am making could come under (d) if and when the Authority so chose, but by giving it voice, by putting it down, you are actually saying, look, this is one of the powers of the Authority, it is one of the things we would like to see the Authority moving towards rather than being in an omnibus catch-all clause. Because I think there was a genuine feeling with all of us that we would like to see the Authority moving to online services and electronic payments and all of that.

Sen. Nicholas: Well, the Government is moving that way.

Sen. Vieira: But I am just saying put it in as a power. It does not hurt to have it. At road safety.

Sen. G. Singh: I think that operationally the online aspect, in terms of efficiency, is part of a policy position and it may not be necessary to put it in law.

But certainly I think the whole question of education and road safety and matters of that nature, because there are other Acts, for example, the Water and Sewerage Act that deals with the whole question of education; the Green Fund deals with the question of building education and awareness. So I do not know what would be the framework of that clause. But certainly, I think, as we move into the future, the Motor Vehicles Authority should have a specific mandate to build education and awareness as a component.

Sen. Al-Rawi: May I add to that, Sen. Singh, through you, Mr. Chairman, that that is a very excellent observation because the courts right now, in practising the measures by which they discipline people that find themselves in trouble under the Motor Vehicles and Road Traffic Act, actually prescribe that people must attend certain courses. And it is very well, as Sen. Vieira's contribution in the debate had suggested, an excellent contribution, to include that education aspect because it may take care of the need of the court as well. So I thought that it was a very laudable suggestion.

Mr. Cadiz: Right now, in the Ministry of Transport, there is the Road Safety Committee, right?—a very simple name, but that works with advertising companies, it works with organizations like Arrive Alive, et cetera, the energy sector; it works with the TTPS. It works with a whole host of agencies to promote road safety and to ensure that there is the education there. And then, of course, you have the Ministry of Education, you have tertiary education. So we felt that the Road Safety Committee would really be better served outside of the actual MVA where we can bring in as many different organizations as we would want, depending—for instance, at some stage, driving under the influence might not be a real issue in Trinidad, something else might be happening.

For instance, I will give you a real for instance—right now, more pedestrians have been killed this year than persons being killed in a vehicular accident. So we might have to change our tact slightly to go after pedestrians which would mean educating schoolchildren—primary schoolchildren, secondary schoolchildren. And it was felt that right now, we will just leave it with the Road Safety Committee and let them do their job rather than have it incorporated in the MVA.

Sen. Vieira: Minister, I thank you, I hear you. I always believe sometimes it is better to have than to want.

"The Authority may, in carrying out its function…"

So it does not pre-empt what the Road Safety Committee is doing.

But having sat on a couple of statutory bodies myself, and sometimes, like for

example, on the mediation board, we were to regulate mediators but there was an absence of an awareness of what mediation was about. So the board said we would go on a campaign to educate the citizens and encourage mediation. Now, one of the first things you have to look at, are we acting ultra vires the Act? The Act does not say anything about education.

So, all I am saying is, it does not hurt to have that you are not acting ultra vires this Act if the Authority were to say, "Look, we are going to promote road safety in Trinidad and Tobago" and it is in that context that I offer the suggestion, not that you are not doing it elsewhere.

Hon. Cadiz: Well, I do not have a problem with that but, for instance, the United States, it is the Department of Transportation that handles what we consider the MVA, and then there is the national road safety alliance or whatever it is or transportation or whatever it is, that is separate and apart from the DOT. Because the DOT is, again, collecting moneys and fees and what have you and doing inspections and that sort of thing, and there is this other agency that handles the issue of road safety. It is not a problem to have it included in here but I am just saying that our preference was to leave the issue of road safety as a more independent organization.

Sen. Al-Rawi: May I join in supporting, through you, Mr. Chairman, Sen. Vieira's recommendation? It would allow the flexibility under the rubric "may"; and, secondly, it would also allow for funding of NGOs which fall into the great difficulty from time to time because we would now have the ultra vires point on the Authority, the power of the Authority to do this canvass already without having to add it in by way of amendment later.

Sen. Nicholas: Let us have the amendment.

Hon. Cadiz: Sen. Vieira.

Sen. Vieira: I do not want to belabour the point.

Sen. Al-Rawi: No, we agree. You have to make the amendment.

Sen. Vieira: Oh, well, I would just say, well, promote road safety education. And I would still like to plug in again for the framework for electronic management, but I hear you.

Sen. Robinson-Regis: May I ask a question in relation to that issue? Mr. Chairman, through you. I am just wondering out loud whether 7(2)(a)(xvi)would cover Sen. Vieira's concern?

> "the development of processes to evaluate compliance programmes with the Act;"

I mean, I am not saying that we should not put this in, but I am just wondering if this may not help that.

Sen. G. Singh: You see, this could be regarded as an administrative function but, going forward, I think that we have to lay a level of emphasis on education and awareness on road safety, and it is better we incorporate it in the Act as a primary objective. So what we need is the right wording now.

Sen. Robinson-Regis: So does that mean that we are going to put that in and you have not taken my suggestion?

Sen. G. Singh: No, it does not mean that I have not taken your suggestion, what I am saying is that your suggestion says let us put it within the compliance function, and I am saying let us put it in the education function and, therefore, there will be both education and compliance.

Sen. Al-Rawi: Agreed and amplified.

Sen. Robinson-Regis: Thank you very much, Mr. Chairman.

Sen. Nicholas: Mr. Chairman, through you, may I ask Sen. Vieira to give the wording for the amendment that he so eloquently proposed?

Sen. Vieira: No, I actually was going to go with Sen. Singh. I thought he had done it very well. [*Laughter*] I did say at the start: promote road safety education but I think Sen. Singh had developed it very well.

Sen. G. Singh: Yes, road safety education and awareness.

Sen. Nicholas: Would you—

4.15 p.m.

Sen. G. Singh: I want merely to indicate that what we have in mind is really to promote road safety, education and awareness.

Sen. Al-Rawi: Well said. It should probably go in as a new (c) and drop (c) to (d) and (d) to (e).

Mr. Chairman: Renumber it.

Sen. Al-Rawi: Yes.

Mr. Chairman: So it goes in as (c)?

Sen. Al-Rawi: As a new (c), should it please you and then renumber consequentially.

Mr. Chairman: So it is road safety, education and awareness?

Sen. Nicholas: Promote road safety, education and awareness. Then (c) becomes (d) and (d) becomes (e).

Mr. Chairman: That is it for clause 8?

Sen. Dr. Mahabir: Mr. Chairman, on clause 8, I have something else on 8(e), and while I am reading my 8(e), I just would like to pose a question, through you, Mr. Chairman, to the hon. Minister on 8(e) now. But the question is: in his summing-up the Minister indicated that there will be such considerations of things such as vanity licence plates, and I want to get it clear that the cost of these plates will be determined not by the Authority but by the Ministry of Finance and the Economy. But that, I would wait for a response, while I suggest 8(e). Clause 8(e), I think, reads in a rather cumbersome way. It says:

> Do such things as may be necessary or convenient for or in connection with the performance of its functions.

I am suggesting the following and I am quoting from 8:

> The Authority may, in carrying out its functions—and I prefer to see the following—engage in such actions as may be necessary for the performance of these functions.

Simplify the wording.

Sen. Prescott SC: That might be a redundancy really. It is bound by law to carry out its functions. I am sorry, Mr. Chairman. Sen. Mahabir will probably hear me quietly but I think it will be redundant to include what he wants in the legislation.

Mr. Chairman: The legal luminaries are saying it may be cumbersome.

Sen. Dr. Mahabir: Very well.

Sen. Prescott SC: If Sen. Al-Rawi agrees with me I will be fine.

Sen. Al-Rawi: Yes, Sir but not only that. Do such things as a term of art which is used in the legislation and it has been the beneficiary of a lot of judicial interpretation, so I would prefer to keep it that way.

Mr. Chairman: Is there anything else on 8?

Sen. Robinson-Regis: Mr. Chairman, you sound a little fed up. May I just suggest that, given what 7 tries to do, which is outline all the things that the Authority should be doing, including registering and regulating driving schools and safety and that kind of thing, may I suggest that that clause be put in 7, rather than in 8?

Mr. Chairman: The new clause (c)?

Sen. Robinson-Regis: The new clause, yes. I think it would flow much better.

Mr. Chairman: Remove road safety, education and awareness. A suggestion by Sen. Robinson-Regis that, although we have already accepted clause 7 and passed, it is a suggestion. If it is to the Government's approval and the Senate, we will do that.

One thing I have observed, Sen. Robinson-Regis, you are either ahead of us or you come back and rectify what we have done and that is good. So is it agreeable that we leave clause 8 as is and the new (c) that we had proposed will now be inserted in clause 7?

Sen. Al-Rawi: It could possibly be a new 18 and renumber the existing 18 as 19, just before the catch-all clause?

Sen. Nicholas: I beg to put it in as the new (xvii).

Sen. Al-Rawi: Sure. I agree with you, AG.

Mr. Chairman: Clause (xvii)? Let us clear 8 and then we will revisit clause 7.

Sen. Dr. Mahabir: Hold on to that, Chairman. I had asked the Minister whether the vanity plates that he had explained to us would be a possibility. The cost of it would be assessed by the Authority or the Ministry of Finance and the Economy? I needed clarification on that.

Sen. Nicholas: The Ministry of Finance and the Economy.

Sen. Dr. Mahabir: So everything is going to be by the Ministry of Finance and the Economy? Okay.

Mr. Chairman: Are we through?

Sen. Al-Rawi: Yes, Sir.

Mr. Chairman: Okay, thank you.

Sen. Robinson-Regis: I know that, based on that question, the Senator said it would be assessed by the Ministry of Finance and the Economy. In the Fifth Schedule we have fees and duties and we talk about issue and renewal of licences, late renewals and so on, is it that we are going to put it in this Fifth Schedule after it is assessed? Yes? Okay because this schedule outlines all the fees. So I assume it will be in—okay, thank you.

Mr. Chairman: You should have been one of the drafters.

Sen. Robinson-Regis: Mr. Chairman, I would be very honest with you. That was my first love, drafting.

Mr. Chairman: You are very helpful to us.

Sen. Robinson-Regis: And then I fell in love with politics and also my husband and PNM; not in that order. [*Laughter*]

Mr. Chairman: Let that not be recorded. That part of it would be struck off the record.

Sen. Robinson-Regis: Mr. Chairman, it was not in that order. Do I need to go into the order?

Mr. Chairman: No, no there is no need to.

Sen. Robinson-Regis: Thank you.

Mr. Chairman: So clause 8 has nothing.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Mr. Chairman: Do we want to revisit now the new clause 7, based on the new clause (c) we wanted to insert and to say where it would be inserted, Attorney General?

Clause 7 recommitted.

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

Mr. Chairman: Clause 7 is now revisited.

Sen. Nicholas: To insert a new clause (xvii) and that new (xvii) will read:

promote road safety, education and awareness.

Question put and agreed to.

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

Clause 9.

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

Sen. Vieira: Chair, let me preface my observations that I am not making this with reference to any particular Government. I am talking from the point of view of good governance, transparency and accountability and I am very mindful of the

whole question about constitutional responsibility of the Minister concerned. But the Minister gives special or general directions. The practice, as I understand it to be abroad now, is that, I quote here from Thornton's *Legislative Drafting*, Fifth Edition.

Mr. Chairman: Senator, please is it a general statement on the entire clause, or a specific?

Sen. Vieira: It is a recommendation that when the Minister gives his directions, he should do so in writing and sign the directions, that the text of the directions should be included in the annual report of the Authority or gazetted and, I am wondering whether there should be an obligation that before he gives the direction he should consult with the body. So that is the thrust with which I am going. It is something I alluded to in my contribution and it is something I want to come back down to because ministerial responsibility on statutory bodies is a very fundamental thing and I would like to address that in the legislation.

Sen. G. Singh: Mr. Chairman, I think it is the whole question of ministerial responsibility. In the Postal Corporation Act in 1999, in that Act the general and specific directions there was a change in the law had to be given in writing. So that I agree with the concept of a Minister providing general and specific directions in writing.

Hon. Senator: So you want to insert it here?

Sen. G. Singh: Yes, just look at TTPost.

Mr. Chairman: Senator, are you saying that it should be inserted as stated?

Sen. G. Singh: In writing. The law has gone further than just leaving it an oral instruction for any Minister to give.

Sen. Vieira: Thank you, Senator. The recommendation I was saying is that the direction should be in writing and signed by the Minister. It should also be included in the annual report of the Authority and that should be published, and there is a question as to whether the Minister, before giving a direction, should also consult with the Authority.

Sen. G. Singh: There are some administrative matters, but in terms of the general law, general and specified directions should be given in writing.

Sen. Nicholas: We would be happy to insert, in writing, at the end of 9(1).

Sen. Vieira: Say, given in writing by the Minister from time to time.

Sen. Nicholas: From time to time, in writing.

Sen. G. Singh: Chairman, you have to ensure that all the general and specific direction is in writing. So that, therefore, anything else is not a general or specified direction.

Sen. Prescott SC: So it might be better to say after the word "time" removing the full stop:

"such direction shall be given in writing".

Mr. Chairman: Is that okay? Such direction after time shall be in writing.

Sen. Nicholas: Mr. Chairman, I would like to further suggest that we introduce a new subclause (2) after subclause (1) that reads:

> Any special or general directions given by the Minister under subsection (1) shall be in writing.

It deals with it cleanly.

Mr. Chairman: Repeat it.

Sen. Nicholas: Any special or general directions given by the Minister under subsection (1) shall be in writing.

And we renumber (2) to (3) and (3) to (4).

Sen. Robinson-Regis: Could I ask with (2)? Is that going to be in writing, the old (2)? Will that be in writing; the old (2), not the new (2):

> …the Minister may at any time require the Authority to provide him with information concerning…

That is going to be in writing also?

4.30 p.m.

Sen. Al-Rawi: Even though it is implied in the language of the existing (2) which is the standard thing, the question is having prescribed a new (2)—

Sen. Robinson-Regis: In writing.

Sen. Al-Rawi:—which specifies in writing, is now open to interpretation that (2) does not need to necessarily be so, because Parliament did not specify it. So I accept that the normal (2), a directive is always in writing. It is an implied practice, but the question is having put an expressed provision in the new (2), whether it is required in the old (2)?

Hon. Senator: It is strongly implied.

Sen. Al-Rawi: Yes it is strongly implied, but it is expressed wishes implied. You would be stating the strong implication overtly and expressly.

Hon. Cadiz: Well then, why do you not just make a simple blanket statement that all communication between the Minister and the Authority must be in writing.

Sen. Robinson-Regis: It should not be.

Sen. Prescott SC: So you would not like it?

Hon. Cadiz: No, well, if you are going to specify every single thing, I mean, for instance in (2), where it does speak about a timeline, you cannot have a timeline—

Sen. Al-Rawi: Without an action.

Hon. Cadiz:—without it being in writing.

Sen. Al-Rawi: Which is why we call it the strong implication argument.

Mr Chairman: The question is: that clause 9 be amended as follows:

Insert new subsection (2) and then you renumber.

"Any special or general directions given by the Minister under subsection (1), shall be in writing".

Mr. Chairman: Is that it?

Sen. Nicholas: Yes, Mr. Chairman.

Mr. Chairman: Then you renumber (2), accordingly.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

Sen. Prescott SC: Mr. Chairman, may I first start off be enquiring whether in clause 10(1), instead of the word "performing", the word "directing" is not more appropriate?

Mr. Chairman: Where?

Sen. Prescott SC: In clause 10(1).

Hon. Cadiz: In the amendments, Senator.

Sen. Nicholas: That is suggested.

Sen. Al-Rawi: I have not had the chance to read the amendments versus the clauses, because they were circulated around here.

Sen. Nicholas: So we can go through them.

Sen. Al-Rawi: Perhaps if you could, that would be very helpful.

Sen. Prescott SC: Where are we?

Mr. Chairman: This was circulated this morning.

Sen. Al-Rawi: No, I just got it. I see, I see.

Sen. Robinson-Regis: This was not circulated this morning.

Sen. Prescott SC: It is in the amendments? Thank you very much, I am so sorry.

Sen. Robinson-Regis: Since we came. Since this afternoon.

Sen. Nicholas: The original amendments were circulated this morning.

Sen. Al-Rawi: Oh, I see, so it is a repetition of the original amendments. Thank you.

Sen. Nicholas: Yes, to include clause 4.

Sen. Al-Rawi: Neither of which I have seen yet, thank you.

Sen. Prescott SC: In the circumstances I am referring to the amendment, and I am corrected. It seems as though it has all been covered.

Mr. Chairman: Minister, could you go ahead, that you beg to move, that is clause 10, be as amended, as circulated?

Sen. Al-Rawi: Mr. Chairman, could I crave the indulgence of the honourable House, to put the amendments on the record so we can track them appropriately? I do not know if the Senate is willing to entertain that?

Sen. Nicholas: I am prepared to do so for those who would not have had the opportunity to read the amendment.

Sen. Al-Rawi: Thank you, Sir. I am one of those. Thank you.

Sen. Nicholas: It is proposed, Mr. Chairman, that clause 10 be amended as follows:

"(a) In subclause (1), delete the word "performing" and substitute the word "directing";

(b) In subclause (2)(a), delete the word "or" after the word "qualifications", and insert the word "and";

(c) In subclause (2)(a)(iii), delete the words "automotive engineering", and insert the words "mechanical engineering";

(d) In subclause (2)(a)(iv), delete the words "motor insurance", and insert the words "representative from the motor insurance industry";

(e) In subclause (2)(a)(v), delete the words "traffic engineer", and insert the word "transportation";

(f) In subclause (2)(vi), delete the words "business representative", and insert the words "representative from a recognized business organization"; and

(g) In subclause (2)(c), delete the words "a person representing the public's interest", and substitute the words "a representative from non-governmental organization involved in promoting road safety".

Sen. Prescott SC: May I, therefore, raise two points? Firstly, in relation to (ii), that is (2)(a) (ii), can we find words that point to the appointment being made by the Law Association of Trinidad and Tobago, instead of simply saying a person who has special qualifications and experience in law? And secondly, in the way you have read, Attorney General, G, now would say:

"a representative from non-governmental organization" without a descriptive word.

Is it "a non-governmental organization", or do you have a specific one in mind, in which case it would be "the"?

Sen. Nicholas: From "a".

Sen. Prescott SC: "…from a non-governmental organization involved in promoting road safety"?

Sen. Nicholas: Yes.

Sen. Prescott SC: Yes. So may I just ask you to focus on whether we could not say, in place of (ii), just the bald word "law", "a person appointed by"?

Sen. Nicholas: It is not the policy.

Sen. Prescott SC: Not the policy. The policy is?

Sen. Nicholas: That we appoint someone with legal qualifications, but not necessarily recommended by the law association.

Sen. Prescott SC: Thank you.

Sen. Al-Rawi: May I?—sorry.

Sen. Robinson-Regis: Are you finished, Senator?

Sen. Prescott SC: Yeah, thank you very much.

Sen. Robinson-Regis: May I ask with regard to clause 10(2)(a)(v), what is someone with qualifications or experience in transportation? What is that?

Mr. Cadiz: No, it is not persons who sit in traffic, no, [*Laughter*] even though they probably are more of an expert. Traffic engineer—transportation is more the field that the Motor Vehicles Authority is involved in, issues of transportation, rather than traffic itself.

Traffic would signify, for instance, in the Ministry of Transport, it is transportation. In the Ministry of Works and Infrastructure, there is the traffic agency. I am not too sure what they—traffic management. They regulate, they look at the road system, and how fast you can move vehicles in and out of an area, et cetera, et cetera, and that is more traffic management and traffic engineering. Transportation engineering is a slightly different field—

Sen. G. Singh: Transporting engineering and not transportation.

Mr. Cadiz: Transportation, sorry, yes, not engineering.

Sen. Robinson-Regis: Could I—no, I am asking, you have six persons each having special qualifications or experience in one of the following areas, and (v) is a person having special qualifications in transportation. You also have at (b), a representative of the Ministry responsible for transport. So I am just asking, is this someone who—the transportation person, the person who is a specialist in transportation, so it is a transportation engineer, a transportation manager?

Mr. Cadiz: Management, manager.

Sen. Dr. Mahabir: Transportation economist as well. That is a special field.

Sen. Robinson-Regis: Okay, well, a person with special qualifications in transportation.

Mr. Cadiz: Transportation, correct.

Sen. Robinson-Regis: And that is your description.

Mr. Cadiz: Yes, and then the representative from the Ministry of Transport, or is the Ministry responsible for transport, could be the Permanent Secretary, it

could be—

Sen. Robinson-Regis: So that person with the qualification, that is a term of art, a person with qualifications in transport?

Mr. Cadiz: In transport, yes.

Sen. Robinson-Regis: I have not heard it before.

Sen. Prescott SC: May I just jump in here? That person need not have special qualifications according to what is being proposed, he may have experience. So the president of the Route 2 Maxi-Taxi Association—

Mr. Cadiz: And experience. No, we speak about qualifications and experience.

Sen. Prescott SC:—or Mike's Transport could do?

Sen. Al-Rawi: But "and" is "or" in the law.

Sen. Prescott SC: It should be "and".

Mr. Cadiz: We have that.

Sen. Al-Rawi: It is "and".

Mr. Cadiz: We changed "or" to "and".

Sen. Prescott SC: You did?

Mr. Cadiz: Yes.

Sen. Al-Rawi: But there is a problem there. First of all, "and" is "or" in the Interpretation Act. So it is still disjunctive in terms of statutory interpretation. If you were to say qualifications in both, it is very different from using "and" which is disjunctive "or". Secondly, I am not aware of a term of art of transportation.

Mr. Cadiz: No, there is. There is, yeah, that is.

Sen. Prescott SC: So Mike's Transportation—

Mr. Cadiz: Transportation is a field.

Sen. Prescott SC: The owner of Mike's Transport could sit there?

Sen. Robinson-Regis: He could be the person?

Mr. Cadiz: No, no. Mike's Transport is the name of a company that does transport.

Sen. Prescott SC: Mr. Mike, who is into transportation can be—

Sen. Robinson-Regis: He has experience.

Mr. Cadiz: No, no, no, no, no. That would not qualify for this.

Sen. Prescott SC: What sort of person would qualify?

Mr. Cadiz: A person in the field of transportation would be somebody who would have studied—again, like the economics, the management of a public transport system, for instance.

Sen. Prescott SC: Is there not a discipline known to academia that might well appear here, rather than—

Mr. Cadiz: Transportation, I mean, you can—well, I do not know who googles here, but you could google it, and you can look at it—and it is. There is a field in transportation.

Sen. Vieira: Well, you can say so, just saying "transportation" leaves it wide open.

Sen. Al-Rawi: Correct.

Mr. Cadiz: Well, the thing is, the problem that we have in a society the size of ours, you have umpteen lawyers, you have umpteen persons experienced and qualified in finance. The reason we moved automotive engineering, for instance, to mechanical engineering, you might have literally, one or two experienced and qualified automotive engineers, as against the mechanical engineer. A mechanical engineer is part of that whole field.

So, we felt that in order to open it up a little bit, that it would be easier for us to get a suitably qualified and experienced mechanical engineer. Motor insurance, again, many persons would fit that bill. So when we came to traffic engineer, that is where we said, "Well, hold on a second, why are we going with a traffic engineer"? It really is transportation, okay?—in the field of transport, which is different to a traffic engineer.

Sen. Al-Rawi: Well, shall we say that field of transport? You see, hon. Minister—

Mr. Cadiz: I do not mind changing the terminology.

Sen. Al-Rawi: Through you, Mr. Chairman, could I point out something? You have said that we have lots of lawyers, but we are not appointing a lawyer. We are saying someone—

Mr. Cadiz: No, no, what I am saying is that the—

Sen. Al-Rawi: Just bear me out, just for a moment?

Mr. Cadiz: Sorry.

Sen. Al-Rawi: What we are saying here six persons each having special qualifications and experience in law. Now, Sen. Prescott's submission with respect to recommendation of the law association has great merit, because the law association would recommend someone most suitable for something in terms—[*Interruption*] hold on. I am not to trying to push the point. I am trying to make a point, right?

The point that I am making here is that someone with experience in law does not have to be a lawyer, and this board, this Authority, is being called upon to exercise quasi-judicial functions of a very serious nature. It is for this reason that we require a three-fifths majority, and I am very uncomfortable insofar as there are prescriptions of due process involved, and quasi-judicial functions, that somebody could just have an LL.B, as opposed to being a practitioner in law of 10 years' standing.

So it is a very loose rubric to prescribe law, as opposed to a lawyer with qualifications. I am giving you the example, as to where the terms of art question came from with respect to transportation. So on the transportation point, should we not say more prescriptively what we intend, and further in relation to law, should we not be more careful in light of the quasi-judicial functionality, to prescribe that an attorney of a certain number of years standing, if we are not going with the law association's recommendation?

4.45 p.m.

Mr. Chairman: Could I have please, Sen. Vieira?

Sen. Vieira: Thank you Chair. For me, this is one of the fundamental provisions of this legislation, and I would come back to the governance of it. We talk about changing the culture of our institutions and rebooting and all of that, the problem I see on a daily basis—and it has to do with a confluence of forces, the fact that they have the Integrity Commission—we have a lot of young inexperienced people being put on boards. They are running important institutions, and they are too young and inexperienced to be able to tell a Minister's expressed wish or desire from what is in the best interest of the organization. So there is an overbalancing in one direction already.

For me, this clause requires a decentralization of power. I fundamentally believe that the lawyer should be appointed by the Law Association and I

disclose, I am a member of the Law Association. All of these bodies require people appointed by that. Take, for example, this amendment about a recognized business organization. Well, you have a recognized business organization, but we do not have a recognized non-governmental organization involved in promoting road safety. So anybody could just create a road safety NGO, and they could be nominated. I really feel this is too fundamental to the governance. I am going to take this point, not just on this legislation. Every single Bill that comes before me where I am talking about appointments to boards, I am going the hammer home this point. We need to change the culture.

Sen. G. Singh: Chairman, I think that I hear what Sen. Vieira is saying and this has been the pattern, but if you are going to reboot, for example, I am in charge of several statutory authorities and independent bodies, and the history has been when you have law that you appoint a lawyer of a certain standing. It has never been the policy, because the Law Association in itself is a captive group, in a sense, at the level of the Executive making decisions, so you do not want that process to cloud the larger pool.

I can see merit in dealing with a lawyer of a certain number of years standing that would allow for that practice, that experience and that independence of thought. So that I can see having merit, but having worked in the sector in dealing with that, I think that there is merit in that suggestion to have a lawyer of a certain number of years standing once you do not have—and it is not the policy position to incorporate the Law Association.

The second issue in dealing with road safety, maybe you can also have a certain number of years engaged in it whilst you do not want to preclude people. I do not think people generally in this society—unless you are in human rights and so on—set up fly-by-night organizations. So, what I think is necessary is that you have to have some measure of experience in it to allow for the independence of thought, because that is what you are seeking to get through the benefit of corporate governance.

Mr. Chairman: Sen. Dhanayshar Mahabir.

Sen. Dr. Mahabir: Yes, thank you very much Chair. I wanted to comment and I wanted to support the Minister's position with respect to being as broad as possible in the area of this specialist in the field of transportation. There are two basic fields and the numbers in Trinidad happen to be very small as elsewhere. Transportation engineering is one of them, and that is dealing with systems of traffic, traffic congestions and different types of transport and so on.

The second is a field, it is transportation economics, and we do not have any transportation economist as far as I am aware in the country. I was trained earlier on in the field. The thing is you can get someone in urban and regional planning as well who has also had a number of years of experience and training in the field of transportation. If we are to really get the people on the board with the expertise, I would prefer that we do not confine ourselves now to say we really need only a transportation engineer, but really any specialist in the field of transportation—because we are really looking at the transport system in the country—who can be used in the field and, therefore, to ensure that we get the complement of people in the organization to get it off and running.

Mr. Cadiz: Senator, I fully support that.

Sen. Dr. Mahabir: I recommend that you remain broad with respect to transport.

Mr. Cadiz: Yes.

Sen. Cudjoe: I want to place on the record please, through you, Mr. Chairman, I support what the Minister has said, and I challenge what was said by Sen. Vieira. I feel a little— very much concerned about the consideration of the statement made about young people who do not know how to run these boards and so on.

Sen. Al-Rawi: That is not what he said.

Sen. Cudjoe: No.

Mr. Chairman: Please, allow the Senator to make her contribution.

Sen. Cudjoe: I am supporting what the Minister would have said, because you also have on some of these boards and committees some older people with some antiquated ideas and approaches to things. So I want us to focus more on qualifications and experience and our approach and ability and capacity to conduct the business of the boards and the committees. Thank you.

Mr. Chairman: Senator, the only thing, the word which you said "challenge"—I am not saying—I do not think it is the word "challenge". You may disagree, but when you say you are challenging, you know you have a wider scope.

Sen. Cudjoe: But I just wanted to place on the record my concern.

Sen. Vieira: Let me assure Sen. Cudjoe, I am a champion for the young. I have no problem with youth and expertise. The concern I was reporting is more to

do with inexperience and not being able to tell the difference as to where the loyalty lay, whether it was for the person who appointed you or to the entity that your serve. So, if I could just clarify that for you.

Sen. Cudjoe: Thank you.

Sen. G. Singh: It is a question more of maturity there.

Sen. Cudjoe: I prefer maturity than young.

Sen. G. Singh: The lawyer should have some experience.

Sen. Al-Rawi: Mr. Chairman, the lawyer shall be an attorney-at-law of a certain number of years standing.

Sen. Nicholas: It is not a problem at all. Attorney-at-law with no less than five years' standing.

Sen. Al-Rawi: Five is de minimis, 10 is hard because you may not get somebody and seven is sort of an in-between position. I am sort of concerned that attorneys-at-law five years in practice tend to be liabilities. We tend to be liabilities to ourselves when we are very young in practice. **Sen. Nicholas:** You are reminded that you can be a magistrate at five years.

Sen. Al-Rawi: I am sure you catch what I mean, hon. Attorney General.

Mr. Chairman: Could we now have the amendment? What is it that we exactly want?

Sen. Al-Rawi: If I may raise a concern on drafting now, just in language, through you, Mr. Chairman. We have a problem in that we use a rubric that says:

> Six persons each having special qualifications or experience in one of the following areas:

So when we put in—listen to how this reads, the amendments as proposed by the hon. Minister for instance.

> Six persons each having special qualifications or experience in one of the following areas:

a representative from business.

It linguistically does not make sense, because we are now torn between having experience in an area as opposed to a person who fits a profile.

So, if I were to use the word "an attorney-at-law" with no less than five years' standing, it does not fit within the field of law rubric nor does saying "a representative from an NGO" fit within the rubric of business. So the whole language of 10(2)(a) needs to be considered if we are to make sense of it and not

embarrass ourselves linguistically in the process.

Mr. Chairman: Whilst you are deliberating I, myself, am looking at a particular subclause in connection with what the Senator has said. While you have identified, it is customary that representatives from the various trade unions that represent workers in those particular areas are placed there. Is it then that they fall under a person representing public interests? Because you spoke specifically from the Trinidad and Tobago Police Service, you have from transport and then persons up here like finance and so. That is fine. But what has happened to that? [*Crosstalk*] Take, for example, you would have had at WASA and so forth, a representative from labour and you would have it in other areas, but they are totally left out. So, therefore, if we specify—because they also represent the workers who are there. PSA represents and this sort of thing.

Sen. Al-Rawi: Very good point, Mr. Chairman, very good point.

Mr. Chairman: So, you have to make observation of those.

Sen. G. Singh: I think that Chairman, I mean, I do not want to gild the lily, but it has been the policy of the Government to include labour; to include labour.

Mr. Cadiz: To include labour?

Sen. G. Singh: Yes, it has been the policy.

Mr. Cadiz: From which organization we are going to include them from?

Sen. G. Singh: The labour organization that is the successor to the body.

Mr. Chairman: There is a federation. There is a federation that is recognized by ILO nationally, regionally. [*Crosstalk*]

Sen. G. Singh: Labour ought to be included. But I think it goes back to the initial point made by Sen. Al-Rawi. We need to ensure that there is a flow and that therefore the drafters need to look at that.

Sen. Al-Rawi: Perhaps we could revisit it if we have got the policy right to give them time to deal with it. [*Crosstalk*]

Sen. Small: Mr. Chairman, thank you very much. I join in this—I have a suggestion, Mr. Chairman. Because we are trying to chart a new course here and I believe if we are trying to do this, let us do it right. I think we need to capture an issue around persons in good standing. The history of people being appointed to organizations who have done wrong things, a lot of it has happened because the appropriate background checks have not been done to make sure that those people, not only hold the qualifications. Being qualified in finance does not

mean—it may very well mean that you know how to embezzle money. So I think that fit and proper person in good standing, I think we need to capture some language in there that makes sure that we have that in place because the history—and this does not apply to any recent or past or anything. I am saying the history of it has revealed, has shown that there are persons appointed to positions who are not persons who are really fit for those positions. They may be qualified, but not really fit for the position. As a suggestion to the Government, I think that this is something we should try to craft if we are really charting a different course here, not only fit for purpose but in good standing, words to that effect. Mr. Chairman, thank you.

Mr. Chairman: May I take the opportunity to ask, whilst I understand what is being said: who determines if this person is fit and proper?

Sen. Small: Now, it would be easy if the Law Association recommends somebody, you have an independent body making that recommendation and that gives you some backing. But who is recommending the person in transportation? You need to make sure that you have some criteria. I am not trying to belabour the point inside of here. Perhaps it could be done in the regulations, but I think there should be something to capture the fact that you have a fit and proper person. I do not think that it is something that is too difficult to do. I was just looking at the newspaper today, and I looked at, I think, the Sunday newspapers and you have a set of photographs with constables for the police service. You have to say whether or not you know this person. Does anyone know this person? It is not that he is a bad person, but you do not know.

Sen. G. Singh: For institutions like financial institutions, the Central Bank provides a fit and proper criteria. This is an administrative functional body to deal with the motor vehicles and the administration of it. I think that due diligence, generally—and I will tell you from experience—that you conduct a due diligence, but you cannot—and when you conduct that due diligence you go into the certification and the veracity of the certification and that has become very relevant now, right?—but you do not know a person. You cannot have that kind of forensic exercise to appoint boards. The number of boards, it simply will not happen, it becomes impractical. If on the face of it you receive information then you act on that and the persons are removed or asked not to serve, but to do a due diligence to the extent that is required for fit and proper, that makes it—

Sen. Al-Rawi: The categories are so broad as well.

5.00 p.m.

Sen. Vieira: But, Minister Singh, what you are saying adds credence to what I am saying because you are putting all that pressure on the Minister and the Cabinet, whereas, if the Law Association was to send its own representative the due diligence would fall on that body, and vice versa with the insurance sector, and what have you. Let them do their due diligence. Let them put forward their representative and, if he fails, let them take the blame.

Mr. Chairman: But could we be categorical that when the Law Association, or that organization sends somebody how would you be able to determine that the one they have sent is not being—

Sen. G. Singh: No, you cannot have the—

Mr. Chairman:—it could very well be considered to be, and when one gets there. So, therefore, I would want to agree with Minister Singh, you cannot ensure that you are speaking in terms of diligence, and they put it in such frame as to the denial of having certain people being given the opportunity. I do not know what we are trying to get out of this, I know it is the intention of each and every Senator in here to get it right, but there are certain things that we cannot entirely debar or deny opportunities, as what Sen. Cudjoe was alluding to, as it relates to certain aspect of given an opportunity. Yes, Sen. Drayton.

Sen. Drayton: Only one point I wish to make, and, to a great extent, I support what Sen. Vieira has advocated. We have looked at all our authorities, I see no departure from the norm here. We say a person, qualifications or experience in finance, law, automotive engineering; neither of these definitions would indicate that this person ought to have some degree of experience in corporate governance. A major problem with our institutions that we face, whether it is health, whether it is education, whether it is traffic, it is weak institutions. People who sit on boards, they may have experience in finance, they might be a lawyer, but they have no clue about governance of an institution, and that is a major problem and a major flaw that I have seen in all these pieces of legislation.

This basic structure here is a structure that goes back—if you want to say—40/50 years when donkey carts were on the road, when bicycles were on the road, and so the question I ask: what makes this different in terms of how it would operate than what we have now? So that I just want to drive home the point, there should be something in the law - if we are looking to depart from the past - that the persons who are appointed to the board ought to have some experience in corporate governance. This statement does not preclude bringing in young people with innovative ideas, bringing in professionals, bringing in people with specialist skills, but you have a board with engineers, law, finance, and nobody knows

anything about running anything.

Sen. G. Singh: Well, it is a very generic statement, Chairman, that Sen. Drayton has made, and the whole question of corporate governance—when you look at the corporations in this country, and which were at the very pinnacle of the finance in this country in the context of corporate governance, when you look at the auditing firms that were auditing those institutions and the shored-up institutions, and the rating agencies, including the recent agencies in the limelight, you recognize that it is all well and good to say that.

The fact of the matter is that when you look at agencies that have been existing in this country for so many years—and I just wanted to go back to the Water and Sewerage Authority because I have knowledge of that. It is stated in Chap. 54:40:

> The Authority shall consist of no fewer than five nor more than nine persons, to be designated Commissioners, appointed by the Minister. Four Commissioners shall be appointed from amongst persons who have special qualifications in, and have had experience of, matters relating to engineering, accountancy, law, economics or business management.

So the combination is there—experience. Therefore, when you seek to change that model—and it is an authority model we are going to "eh"—it is a statutory authority model, who are they accountable to in the statutory model? It is not a corporate model. It is not a corporate model in which you have a different frame of governance.

It is a statutory model and in the statutory model the line Minister is with responsibility, but, I think, in terms of the qualifications, we ought to have a combination of certification, so to speak, and experience, and that is the mischief here we are trying to cure. That is the mischief. Now, exposure in corporate governance, you must have a mix, you must have some people with experience and you have to blood and mentor young people, the point made by Sen. Shamfa Cudjoe. But you cannot have the imbalance, and you seek to get the balance so you would be able to mentor young people in the proper governance model. So, I think, coming back to what we have at hand, we ought to have a combination of experience and qualification.

Mr. Chairman: During the period before we suspended the sitting for lunch we had agreed that we would take two hours to allow certain Senators to meet and have clause 10 fixed in such a way that we would have a consensus much easier than when we started, but, apparently, what was done we are back to where we

were before we started. In light of that, I wanted to give way to allow clause 10 to be completed before we have a break, but, apparently, I might have to suspend before.

Sen. Robinson-Regis: Mr. Chairman—

Mr. Chairman: Yes, please do, I will allow you.

Sen. Robinson-Regis:—just for the record, thank you. When you gave us the two hours—and I did not join with them in making the changes but I made some suggestions—it was to deal with clause 4.

Mr. Chairman: Clause 4. Okay.

Sen. Robinson-Regis: So now you might have to suspend again for us to deal with clause 10.

Mr. Chairman: Clause 10 is really Government's amendments. Sorry, my mistake.

Sen. Robinson-Regis: Yes. So you want to suspend for two hours for us to deal with clause 10 now?

Mr. Chairman: We could always rely on you.

Sen. Robinson-Regis: Yes, Sir. [*Crosstalk*]

Mr. Chairman: So therefore—it would not be two hours again.

Sen. G. Singh: No. No. No. No. We need a half an hour.

Mr. Cadiz: Chairman.

Mr. Chairman: Yeah.

Mr. Cadiz: Chairman, can I suggest, the issue of governance, the issue of the directors, et cetera, you will never get it spot on. If it was a different company, if it was a private shareholding company, the shareholders will appoint, et cetera, and bring in the people that they would feel that are right. If it is a publicly traded company, you would have the same issue. You have a mix of disciplines on a publicly traded company board and it is the same thing here, all right, but to say that you will always hit it right where you are getting the best of the best on every single appointment, it is just not going to happen.

I think the disciplines that we have here are good for the Motor Vehicles Authority. These are people who will understand, whether it is from business, understanding how business operates, and what the business community will

require for the licensing of vehicles and the whole process, et cetera. And if you go through, all you would see whether it is law and finance, motor insurance, all part and parcel of the operation of the Motor Vehicles Authority. We also have to remember lower down that there is a management structure. So, therefore, the board serves to set policy, and we have to also understand that Government will set policy—this is the direction of the Motor Vehicles Authority—and the Board of Directors takes on that as government policy, whatever it is, the management structure then has to do that engagement and to make it happen.

So whether or not it is marketing, whether or not it is service levels that have to be achieved, et cetera, that is a matter, not for the chairman of the board but that is a matter for the CEO of the company. If it is that the Board of Directors is determined that the service level, based on complaints from customers, is not what it should be, then they go to the management and they say, "Come, you guys need to straighten up, okay", and that is the difference. If it is then that we need to appoint a representative of labour—right now we have nine members identified here—we add a labour representative from labour, which would make it 10, and, therefore, we would add one more to make it 11, and I think we can settle on that.

Sen. G. Singh: What is the one more we have?

Sen. Al-Rawi: So that they have the odd number—

Mr. Cadiz: Yes.

Sen. Robinson-Regis: So what they are saying that one—

Mr. Cadiz: Who is the odd one?

Sen. Robinson-Regis: No, what is—

Mr. Cadiz: No. No. I am just saying that, based on the suggestion from the Chair, that we add a labour representative and we open the floor to who should—the eleventh—

Sen. Al-Rawi: The casting vote.

Mr. Cadiz: Yeah.

Sen. Robinson-Regis: I know labour is part of your policy, as you have said before. I know this was just a mistake.

Mr. Cadiz: Yeah.

Sen. G. Singh: Yeah, definitely.

Mr. Cadiz: Of course.

Sen. Al-Rawi: So we are looking for one more suggestion for the tiebreaker, and perhaps I could recommend, whilst we are looking to the drafters, through you, Mr. Chairman, clause 10(2)(a) would have to take on a fashion resembling clause 10(2)(b)(c)(d), if you are going for the representative members.

Sen. G. Singh: Sen. Vieira, you had somebody from the Maxi Taxi Association?

Sen. Vieira: Yeah, I have been suggesting some of the maxis.

Sen. G. Singh: That is not the Maxi Taxi Association. [*Crosstalk*]

Sen. Al-Rawi: That is a very good suggestion.

Mr. Cadiz: I have no—and we cut it off at 11, and I have no problem with that.

Sen. Al-Rawi: They are a large user.

Mr. Cadiz: Yeah, they represent a substantial part of the public transport. Yes.

Sen. Robinson-Regis: They will be the transportation person. [*Laughter*]

Mr. Cadiz: There is a one-umbrella body and then there are other associations that are members of that umbrella body.

Sen. Vieira: But, Minister, my concern is, as I said, and I just want to—the tendency is that there can be more party orientation than representation of the particular sector or interest concerned and the body concerned, and that is what I want to break and move away from.

Mr. Cadiz: Well, right now we have nearly half the board of representatives of various organizations, rather than the party.

Sen. Vieira: No. No, but—

Mr. Cadiz: But, again, Senator, in fairness to everybody here, we also have to understand that the administration has policies that they want to initiate, okay, and, therefore, they have to have support. Make no mistake, you have to have support, and let us not hide from that. Therefore, if we were to have boards that were—all, every single state board—that was against the then administration, then you have a non-functioning system, all right? So, I am not saying that the party people that are there for any particular reason other than—you have to support government policy.

Sen. Vieira: But, you see, again, this is the governance issue to which I speak,

because when you sit on that board your loyalty is to that organization, not to the party, and, certainly, not anti-government or anti-party either.

Mr. Chairman: Wait. Wait. Wait. Could I make a suggestion here, because, apparently, to me, we have some amendments here really pertaining to clause 10, and there are further amendments or concerns, I gather, from where I sit, coming from among the Senators. Could I suggest that the amendments that have been circulated by the Government, the very said Senators who met in relation to clause 4, could they meet during that period to ensure we do not have this long outstanding concern so it would be much quicker to address? Are we in support of the suggestion by the Chair?

Hon. Senator: Yes.

Hon. Senator: Yes, we are, we are.

Mr. Chairman: I did not hear the Government response to that.

Sen. G. Singh: What? [*Laughter*]

Mr. Chairman: That the same arrangement that was there as it relates to clause 4, the amendment that has been circulated by the Government, apparently we have some varying concerns among the very said Senators, so if they could meet and flesh it out during that period it will make it much easier. It are 272 clauses, we "eh" complete 10 as yet, [*Laughter*] so I am thinking if we could expedite it by, you know, appeasing those with the concern, particularly the legal minds and those who were first involved with their first love—I am not mentioning names. [*Laughter*]

If that is in agreement we could suspend the committee stage for tea and come back. Do I have agreement with the Attorney General pertaining to have them look at it?

Sen. Nicholas: Yes, Mr. Chairman.

Mr. Chairman: Okay. So, therefore, the committee stage is suspended until 5.45. Is that in agreement? That will be sufficient time? You want a further—well, let us say at 6.00. We will return at 6.00 p.m.

Sen. G. Singh: Yes.

Mr. Chairman: Thank you very much, the committee stage is suspended.

5.15 p.m.: *Committee suspended.*

6.00p.m.: *Sitting resumed.*

Sen. G. Singh: Thank you, Mr. Vice-President. May I humbly request that the Senate be resumed for a Procedural Motion.

Senate resumed.

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (**Sen. The Hon. Ganga Singh:** Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continues to sit until the adjournment later in the proceedings, at the behest of the Vice-President.

Question put and agreed to.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

Committee resumed.

Mr. Chairman: We shall now reconvene the committee stage. We were on clause (10) and there was an agreement.

Sen. Nicholas: Mr. Chairman, the clause is being redrafted and will be here with us in a minute. Maybe we could go on to the next clause in the meantime.

Clause 10 deferred.

Sen. Dr. Mahabir: Before we go on to clause 11, we did not continue everything on clause 10 though, and I had a concern on clause 10(6). It is just for clarification. In 10(6) it says that:

"The Minister may at any time revoke the appointment of a member of the Board, other than the representative of the Commissioner of Police..."

Mr. Chairman: Senator, please. What was done is that we had asked, as a suggestion made by me, that certain Senators that were previously looking at clause 4, would go back and look at the amendments of the Government and then we would go through. Since then we have agreed we will continue with clause 11 because they are now preparing to have it circulated. So at that juncture, you will be able to make your point.

Clause 11 ordered to stand part of the Bill.

Clause 12.

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

Sen. Al-Rawi: May I enquire with respect to clause 12, I am not familiar with the use of both remuneration and allowances as a formula for payment. Could I perhaps receive some guidance, through you Mr. Chairman, as to whether this terminology conveys perhaps what we are looking for—"to be paid and allowances"?

Sen. Nicholas: Mr. Chairman, we will have no difficulty removing "and allowances", as remuneration would normally include salary and allowances.

Sen. Al-Rawi: That was my understanding; thank you.

Sen. G. Singh: For purposes of clarity, board members are not paid a salary, and that therefore the remuneration that board members are in fact provided with on a monthly basis is by virtue of a tiered system by the Ministry of Finance and the Economy, in which, if you are in Tier A you receive certain allowances. So there is a categorization of that remuneration.

Sen. Al-Rawi: Thank you, through you, Mr. Chairman, to the hon. Leader of Government Business; obviously experience matters sincerely. I was just looking at how to capture the legal language with respect to it. I know that every bit of law uses a particular formula, and I was wondering if this particular formula was standard. I did not recall "and allowances" in other prescriptions so that is the reason why I raised it.

Sen. Nicholas: And hence we agree.

Mr. Chairman: I myself will need a little clarification on this, with all due respect. In the other place I am aware that when one speaks about allowances that are given for a particular duty that you may perform, whilst allowances are not calculated as it relates in wages and so forth, but there are provisions for allowances for certain aspects. You have things, for example, like a travelling allowance, you have clothing allowance, and this sort of thing is considered to be allowances, which is apart from the remuneration that you would have received. So in my own estimation, and with the experience as you have rightly said, I think that both of them are necessary. Sen. Vieira, I see you nodding your head, are you in support of the Chair?

Sen. Vieira: I agree. Absolutely.

Sen. G. Singh: Chairman, I want to indicate that it is the practice and it is the policy for board members to receive a remuneration, and the remuneration is a set and prescribed amount, by virtue of the Minister of Finance and the Economy, and it does not include allowances. To do otherwise will be a departure. Therefore, matters of travelling and so on are incorporated in the fixed amount. For want of a better term, board appointment is not a salary and allowances function. It is a prescribed stipend.

Mr. Chairman: With all due respect, there are allowances that are given. I am not saying by law that it is, but I am certain that there are allowances different

to the remuneration that you receive. I am certain of that. So I particularly do not see a harm in leaving the allowance and the remuneration.

Sen. G. Singh: To resolve this matter I think the mediator ought to be the Minister of Finance and the Economy.

Sen. Howai: The Chairman is correct. We do pay allowances, so it would be a basic stipend plus allowances.

Sen. Al-Rawi: The question is whether remuneration in law includes allowances; that is the legal issue on the table. The fact of the payment of allowances is given. The question is: Does one need to prescribe remuneration separately from allowances in so far as legally remuneration includes allowances? That is just the simple question.

Mr. Chairman: It is separate and apart.

Sen. G. Singh: If I were to use my own experience, if I only see remuneration and I am the Minister, I am not going beyond that, because I might have to pay that from my own pocket. So if that is the case, we ought to leave allowances.

Sen. Al-Rawi: I was not sure. Hon. Ministers, through you Mr. Chairman, I am asking just because I have not seen the term before. Perhaps the legislative drafting team could assist us as to what the formula is; I just do not know.

Mr. Chairman: It has been answered by the Minister of Finance and the Economy. I think we should accept, and then there are other legal minds that are in agreement. So thank you very much.

Sen. Al-Rawi: Thank you, hon. Chairman.

May I just ask, I have seen in other legislation—while we were talking I pulled up three other Acts here on my phone—and usually terms of employment are approved by the Minister. I have just looked at three pieces of legislation. I did not see that prescription here. I was not sure if it should apply or not. Clause 12 says:

> "The members of the Board shall be paid such remuneration in respect of their office..."

I see. It is in the language, Sir, apologies. It is just usually done as a subset.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 13 ordered to stand part of the Bill.

Clause 14.

Question proposed: That clause 14 stand part of the Bill.

Sen. Vieira: Chair, a suggestion. I think the controversial clauses have been more or less dealt with. I am wondering now, if not with a view to expediting, we could take it in chunks?

Mr. Chairman: I am so thankful for that suggestion. If that is the agreement of the House—

Sen. Al-Rawi: May I, before it is chunked, Mr. Chairman, invite reflection on clause 14? I am sort of concerned that clause 14 goes a little bit beyond what it ought to. We are putting into the parent Act material which could really go into subsidiary legislation, rules, other positions. Anytime that we look to change—for instance, a meeting can be done by videoconference—usually all of these things are dealt with under subsidiary legislation. I was just wondering if we were comfortable in making it part of the parent law, as opposed to the subsidiary law, because of the flexibility that you may want in the future to change. I was just wondering about that.

Sen. Vieira: I agree with Sen. Al-Rawi, but to take it out might have a whole knock-on effect. I see clause 15 could give you the expansiveness that you are speaking about.

Sen. Al-Rawi: Okay, thank you, Sir.

Question put and agreed to.

Clause 14 ordered to stand part of the Bill.

Mr. Chairman: Clauses 15 to 20

Sen. Al-Rawi: I have a concern in relation to clause 17.

Mr. Chairman: Any concern that you have within the block that has been called, you are free to raise it.

Sen. Al-Rawi: Thank you, Mr. Chairman.

Clause 15 ordered to stand part of the Bill

Clause 16.

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

Sen. Drayton: In clause 16, just a minor thing. I am just wondering whether the words should be “at the next meeting” rather than “at a subsequent meeting”.

It says here:

> "...the Secretary...shall be confirmed by the Board as soon as practicable at a subsequent meeting."

But the minutes of each meeting would normally be confirmed at the next meeting. It seems highly unusual.

6.15 p.m.

Mr. Chairman: But, "as soon as practicable" could not be taken as the next meeting or any other meeting thereafter?—"as soon as practicable" instead of specified?

Sen. Nicholas: Because there may be some reason for not being able to do it at the very next meeting, and that is why it says "as soon as practicable".

Sen. Al-Rawi: In which case it could be tabled/moved that it be not accepted. But, the corporate requirement to actually have it at the next meeting is to eliminate mischief that could happen in somebody dealing with the minutes—well, changing minutes to reflect circumstances which have happened subsequently, so that is the reason why you usually have it at the next meeting. So, I do thank Sen. Dayton for pointing that out, I had not seen it.

Sen. Prescott SC: Under the circumstances, may I enquire, if the amendment now reads, "shall be confirmed by the board at the next meeting", and the secretary fails to achieve that, then we do not have a provision for dealing with that later.

Sen. Nicholas: And there have been many times when persons attending one meeting may not attend the other meeting and you may not have someone who can confirm the minutes, and therefore it cannot be confirmed at the very next meeting, but it is confirmed as soon as practicable at a subsequent meeting.

Sen. Prescott SC: So that, one may consider "at the next meeting or as soon as practicable thereafter" if you wish—

Sen. Nicholas: That is essentially what we are saying.

Sen. Prescott SC:—which I thought might cover it. So that, you are primarily required to provide it at the next meeting, but should that fail—

Sen. Nicholas: Because it says, "as soon as practicable at a subsequent meeting.", so it might well be that "as soon as practicable" would be the next meeting.

Sen. Prescott SC: I am recommending emphasis being placed on the next meeting, failing which thereafter. That is the only slight alteration to what I think Sen. Drayton has asked.

Sen. Drayton: It is just that what is here is so unusual.

Sen. Nicholas: Is it?

Sen. Al-Rawi: Yes, it is

Mr. Chairman: Sometimes unusual things fit in very nicely.

Mr. Cadiz: Chairman, you do have, in fact, instances whereby the minutes are not ready for whatever reason, the corporate secretary has fallen ill, or something like that, it does not mean that you are going to stymie the next meeting by not allowing that meeting to go ahead.

Sen. Al-Rawi: This is why it is usually put into subsidiary legislation and not primary legislation. So, it is unusual, firstly, because it is crafted the way it is in primary legislation.

Mr. Cadiz: But we state "as soon as practicable at a subsequent meeting", and that should cover any instances whereby the minutes is just not ready for whatever reason.

Mr. Chairman: Incidence of that meeting, can we go with that?

Sen. Drayton: Yes.

Mr. Chairman: Okay, thank you, Sen. Drayton.

Question put and agreed to.

Clause 15 and 16 ordered to stand part of the Bill.

Clause 17.

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

Sen. Al-Rawi: Mr. Chairman, should it please you? So, here it is that the board is appointing standing or special committees, and I was wondering about the effect of clause 17 as it relates to the operation of clause 13. Clause 13 is the exception clause for negligence, for everything done other than in good faith, it is the provision of immunity to members of the board—the standing or special committees as carved out from the board, is there to be any degree of indemnity in respect of things done in good faith for people that serve on these committees?

Sen. Prescott SC: Before anybody endeavours to answer, will such committees not be committees of the board, and therefore reporting to the board and the decision is made by the board?

Sen. Al-Rawi: Usually, yes, say that this is a co-opted committee under this architecture. So, it is "such other persons, whether members of the Board or not, whose assistance or advice the board may desire.".

Sen. Prescott SC: So, decisions that are going to be taken coming out of meetings of those committees, are going to be decisions of the board? So, that level of responsibility—

Sen. Al-Rawi: So, the reliance is on the flow-back of a recommendation of a committee back to board. Correct?

Sen. Prescott SC: Yes.

Sen. Al-Rawi: Okay, thank you, Sir.

Mr. Chairman: Yes, that is quite correct.

Sen. Al-Rawi: I appreciate the explanation.

Question put and agreed to.

Clause 17 ordered to stand part of the Bill.

Clauses 18 to 20.

Question proposed: That clauses 18 to 20 stand part of the Bill.

Sen. Al-Rawi: Sorry, Sir, clause 17 I am not quite finished on, and forgive me, I was just reflecting upon it, I had not heard it moved on. I was looking at—

Mr. Chairman: But, I have not indicated to you that I have reopened. Because we did in fact take a decision, the majority said "aye", and then we moved on. So, I think it is not in the best interest after we have done that and then you think of something and say let us go back. I mean negotiating in good faith is all good and well, but—[*Laughter*]

Sen. Al-Rawi: I appreciate your caution, Mr. Chairman. Insofar, I think I have answered my own question, not that I would want to disrespect the Chair—

Mr. Chairman: No, no, you are never like that.

Sen. Al-Rawi:—but I certainly see what I want to say, in fact—

Mr. Chairman: If it says which [*Inaudible*]

Sen. Al-Rawi: No, Sir. My wording on my Bill is a bit blurred, so it is clause 18 that I had the concern with and you are now on 18. Thank you, Mr. Chair.

Clauses 18 to 20.

Question proposed: That clauses 18 to 20 stand part of the Bill.

Sen. Al-Rawi: With respect to clause 18, thank you, Mr. Chairman. With respect to the "Disclosure of interest", I was wondering whether the connected party, the attempt to attach connected party definition in subclause (3), was sufficient; whether we ought to include persons who have beneficial entitlement. How we should treat with the circumstance where you have participated in a decision, it is put into effect, and then it comes your attention that you had a conflict of interest and that you ought to disclose it then. It is something that we wrestled with when we dealt with the securities laws, for instance, those points being in summary:

1. catching the correct definition for an interested party, a connected party;
2. whether it should be dealt with in terms of persons who beneficial interest; and
3. how do we treat with decisions where a conflict of interest is discovered subsequently and providing the opportunity to disclose it. Perhaps the hon. Minister has a perspective on this, through you, Mr. Chair?

Sen. G. Singh: When you look at 18(1), Chairman, when you look at it, with respect to the whole question of when the matter is brought to his attention, it is very clear, after the relevant facts come to his knowledge.

Sen. Al-Rawi: What I meant there—thank you hon. Leader of Government Business, I was looking at, for instance, that the disclosure ought to be in writing, that the disclosure should be communicated immediately to the secretary of the board and not just at the board itself, because the secretary would be the repository of that instrument in writing, so it was those sort of circumstances I was looking at. So:

"A member of the board or a committee established under section 17 who is in anyway interested, whether directly or indirectly, in any—

transaction…; or

matter…

shall disclose the nature of his interest at the first meeting of the Board or a committee at which he is present after relevant facts come to his knowledge."

If I am not present, if the next board meeting is a long way away, should I not have a positive obligation to disclose it in writing forthwith upon discovery and communicate same to the secretary?

Mr. Chairman: Do you think Senator that it is necessary that it has to be in writing? You have identified in that way that you have an interest in that matter, and the clause there seems quite clear that at the next meeting where you are present, you are supposed to disclose. You may very well disclose it even before the next meeting, but at least then you are saying that it ought to be in writing. I was just asking you if it is necessary.

Sen. Al-Rawi: Sure. If I may explain why I have suggested in writing. Once you are at the board meeting there is a secretary taking notes which form minutes. So, there would have been a prescription in writing via the secretary saying, "John Brown disclosed his interest at this meeting and it was duly noted". He then stepped out of the room, took no further part. If we have a position where you do not actually attend the meeting, or it is a long lag away, we would want to put—I would think—a positive obligation to disclose in writing outside of the board room.

Mr. Chairman: Yes, but, contrary to what you have said, even though then it is given to the secretary, the secretary cannot insert it in the minutes before the next meeting is held.

Sen. Al-Rawi: Correct.

Mr. Chairman: So, therefore the person coming and attending that particular meeting might very well have it minuted that your interest you are now disclosing. So, I am making the point, I do not know if it is to the satisfaction of the rest. I think the appropriate time is when you attend the meeting that you disclose to the secretary and the entire meeting that you have an interest. So, I do not think it is necessary to have it in writing.

Sen. Nicholas: Clause 18(2) deals with that. Exactly, Mr. Chairman. In fact, 18(2) says that exactly. It says, "A disclosure under subsection (1) shall be recorded in the minutes…".

Mr. Chairman: Yes.

Sen. Al-Rawi: All this says is that you must do it at the meeting. I am dealing with circumstance.

Mr. Cadiz: Senator, it also says, "or a committee". So, if you are a part of a committee that is making a determination on something and there is a conflict of

interest there, you can disclose it at the committee, outside of the committee, or the board meeting, where other business that you are doing is about—

Sen. Al-Rawo: We are on the same page. I am talking about the position where you are not at the meeting, either of committee or of the board.

Mr. Chairman: Also, Senator, as you ought to be aware, all committee meetings of the board is subject to the approval of the board.

Sen. Al-Rawi: I am not on that, Sir.

Mr. Chairman: So, even though then it is being said there, it still has to be minuted about the [*Inaudible*] so I do not think it is necessary.

Sen. G. Singh: Mr. Chairman, I think what the hon. Member is seeking to do is to indicate that as soon as he has knowledge of this, whether or not he is present at a subsequent board meeting, but as soon as it comes to his knowledge, wherever he gains that knowledge from, he should put in writing his interest and disclose that to the corporate secretary of the board. And I think that is practical, in a sense, but it could lend itself to better law, that, from the time you find out you put it in writing, but that must not be the only measure, certainly at the time of the board meeting he has an obligation to also do that. So, it could be a combination of both.

Sen. Al-Rawi: Exactly, where you say, "and in any event at the board meeting".

Sen. G. Singh: So, how do we get it right here then?

Sen. Small: Mr. Chairman, if you could permit me?

Mr. Chairman: Yes, please, Sir.

Sen. Small: Mr. Chairman, I want to chime in on this because I take the portion from Sen. Al-Rawi about the issue subsequent to the board meeting. It is either revealed by the board member or it is found out by other parties that there was an interest. I agree that if subsequent to the board meeting, through an error of omission, or other error, that that person had an interest, I agree that it should be recorded, reported to the board secretary in writing. I asked though, what is the sanction? Is that the only procedure? Is that the only procedure that he should just write and say, "well, I omitted to mention that I had an interest in this matter", and the matter ends there? Should there not be some sort of sanction? Especially in the case if it is not necessarily reported by the member but by someone else.

Sen. Prescott SC: This may be the same question, but what if the member who has this interest has deliberately excused himself from board meetings until the transaction has been completed. For example, his vehicle has been used by way of charter to take some group of persons to a retreat in Toco—my place. So that the transaction is completed, he has got his payment, he does not need to say anything because he has not yet attended a meeting. What I understand from Sen. Small is that we might well want to invalidate such a transaction. It might be larger than a mere transport arrangement. So, we need to introduce something that says, report it now, and if perchance such a transaction has gone through, and it is later discovered that there had been no disclosure, the contract may be a void. Could some thought be given to that?

Mr. Cadiz: I think what we are looking at here is, the scheduled board meeting, the board meeting that is going to be constituted is the timeline by which it has to be done. If it is that there is a director that understands that there may be a conflict of interest for whatever reason, he could make it known to the Chair, or make it known to the corporate secretary, make it known to the committee that he is sitting on or heading, but the actual notification period is at the board meeting.

Sen. Prescott SC: The only question is, what if he chooses to avoid board meetings until the transaction has been completed? The travel agency that he runs has received this money, the person has gone to Korea and come back, what do we do?

6.30 p.m.

Mr. Cadiz: Well, it is the same way that whether he sent in writing to the corporate secretary or never did it, it does not change anything.

Sen. Prescott SC: So, Sen. Small said, how do we treat with such an infraction?

Mr. Cadiz: No, by failing to disclose. Because you have failed to disclose.

Sen. Prescott SC: Do we avoid the transaction or do we penalize the—

Sen. Al-Rawi: You see, it is the loophole we are looking at, hon. Minister. We are looking to catch the mischief. Can the mischief be exploited by an engineered loophole? And that example by Sen. Prescott SC is a very real one.

Mr. Chairman: But if the action has already been completed and he receives, then he comes at the next meeting and says there is a conflict of interest of what transpired, it redounds to the same thing. It has to be discussed at the level of the board what action—

Sen. Al-Rawi: You see, the benefit may not itself be the turpitude, it may not be the thing which is wrong. It is the failure to disclose. So the failure to disclose is separate from, in some instances, the benefit. So it is a question of corporate guidance. How do I prosecute someone who has engineered a result?

Sen. G. Singh: You see there are two situations, Chairman, through you, we are trying to avoid the avoidance issue of absenteeism.

Sen. Al-Rawi: Correct.

Sen. G. Singh: And then you are looking to have, to ground it in something concrete that he has knowledge of his conflict of interest. So the writing mechanism is an appropriate mechanism. [*Interruption*] The what?

Sen. Prescott SC: What I would have liked to add is that he must write immediately—

Sen. G. Singh: Yeah.

Sen. Prescott SC: —and report to the next meeting.

Sen. G. Singh: Yeah, so that therefore we ought to incorporate the writing mechanism from the time he has knowledge.

Sen. Nicholas: So, Mr. Chairman, I would like to suggest—[*Interruption*]

Sen. Vieira: I was just thinking. So at 18(1), after you go to (a), (b):

"shall"—as soon as the relevant facts come to his knowledge—"disclose"—in writing—"the nature of his interest at the first meeting…"—continuing.

Sen. Al-Rawi: "…and at the first meeting".

Sen. Nicholas: May I suggest as well, subsection (2):

"A disclosure under subsection (1) shall be"—reported to the secretary in writing immediately and—"shall be recorded in the minutes of the meeting and after the disclosure the member making…"

Sen. Al-Rawi: Yes, that is very useful.

Sen. G. Singh: Let us get it right, Mr. Chairman.

Sen. Prescott SC: I am sure you can—

Sen. Nicholas: I can, because I wrote it. [*Laughter*]

Mr. Chairman: Yeah, let us go.

Sen. Nicholas: "A disclosure under subsection (1)"—

Sen. G. Singh: No, no we have first put—

Mr. Cadiz: In (2) right?

Sen. Nicholas: Yeah this is 18(2).

Mr. Chairman: Clause 18(2), right.

Sen. Nicholas: "A disclosure under subsection (1) shall be reported to the secretary in writing immediately and"—

Mr. Chairman: To the "corporate secretary" or just to the "secretary".

Sen. Nicholas: To the secretary.

Sen. Prescott SC: Yeah, that is the word to use. Immediately upon what?

Sen. Nicholas: Well, one speaks to the—

Sen. Al-Rawi: Upon the immediacy of knowledge.

Sen. Nicholas: The knowledge.

Sen. Prescott SC: AG, that is where I think there is a weakness in how you are positioning it. I think we should go back to (1) and say, it is upon the information coming to his attention that he makes that writing.

Sen. Al-Rawi: Yes.

Sen. Prescott SC: And then go to two. So if you could put the immediacy back into clause (1)—

Sen. Nicholas: Um-hmm. Tell me.

Sen. Prescott SC: It will flow naturally.

Sen. Al-Rawi: And then your (2) would flow as well.

Sen. Nicholas: How would you amend (1)?

Sen. Prescott SC: "shall disclose the nature of his interest to the Secretary in writing immediately upon the relevant facts coming to his knowledge and at the first meeting of the board"—thereafter—"at which he is present."

Sen. Nicholas: Okay, so that we deal with it in 18(1) then—

Sen. Prescott SC: I should like to see that—

Sen. Nicholas: —in totality. Okay.

Sen. Prescott SC: Well, I did not write mine so do not ask me to repeat it.

Sen. Nicholas: "shall disclose the nature of his interest—

Sen. Prescott SC: Immediately upon the relevant facts having come to his knowledge.

Sen. Al-Rawi: It could even be after the word "shall immediately upon". **Sen. Prescott SC:** There are those who prefer "as soon as". Sorry, Sen. Vieira is suggesting, "as soon as"; "as soon as the relevant facts have come to his knowledge". And that ends it. And in (2) we said that very disclosure, the written one shall be recorded in the minutes.

Mr. Cadiz: So both then.

Sen. Nicholas: Well, we already have the disclosure under subsection (1). So we do not need to—[*Interruption*]

Sen. Prescott SC: We are not changing anything in (2), no.

Sen. Nicholas: Okay. "shall disclose the nature of his interest in writing to the Secretary"—

Sen. Prescott SC: As soon as—

Sen. Nicholas:—"as soon as the relevant facts have come to his knowledge.".

Sen. Prescott SC: Full stop, end of story.

Mr. Chairman: So you are now inserting in clause 18, subsection (1), "shall disclose to the secretary as soon as"—

Sen. Prescott SC: In writing, Sir.

Mr. Chairman:—"in writing as soon as the relevant facts come to his knowledge.".

Sen. Prescott SC: Have come.

Mr. Chairman: Eh.

Sen. Al-Rawi: Have come.

Mr. Chairman:—"have come to his knowledge". Is that it?

Sen. G. Singh: It has to be the nature of his interest, eh.

Sen. Prescott SC: Did we not say that. I am sorry. Shall disclose the nature—

Sen. Nicholas: The nature of his interest.

Mr. Chairman: Shall disclose the nature of his interest—

Sen. Nicholas: Because we are leaving, "shall disclose the nature of his interest" and we are inserting after interest, "in writing to the Secretary"—

Mr. Chairman:—"to the Secretary in writing as soon as this comes to his knowledge."

Sen. Nicholas: Yes.

Mr. Chairman: Okay.

Sen. Nicholas: And delete the rest of that sentence.

Sen. Al-Rawi: Yes, Sir. And if I may invite attention to subclause (5). Here is where the tie-in between subclause (3) and subclause (5) comes alive in the definition of "immediate relative". Now, this description of "immediate relative" is not by way of reference to other legislation which usually describes what a relative is. For instance, laws which speak to degrees of consanguinity or children of the home, the Cohabitational Relationships Act, et cetera. So we have departed from that usual definitional prescription, and in so doing, we have for instance, lost the attachment to stepbrothers, stepsisters or half-brothers or half-sisters because there is a degree of separation there.

I have seen the need, insofar as other pieces of law speak to broader degrees of consanguinity or affinity. I was wondering if the use of this formula caught all that we intended. And I will very much appreciate the assistance of some of the other drafters amongst us.

Sen. Nicholas: We could actually keep it as it appears in other bits of legislation. [*Crosstalk*]

Sen. Al-Rawi: The Financial Institutions Act or the securities laws that we just—not the FIA, but the securities laws have a phenomenal description of prohibition for this particular connected party issue. It may be worth having a look at if you, through you, Mr. Chairman, consider it.

Sen. Nicholas: We will definitely incorporate it. We just need to get the wording.

Sen. Al-Rawi: Sure, thank you, Sir.

Mr. Cadiz: We will come back to (5).

Mr. Chairman: We will come back to clause 18(5).

Sen. Prescott SC: May I make a further insertion on 18, please. AG, I was

wondering if we would not be falling into error if we did not look at 18(4) in light of what we did in 18(1). In 18(1) we said:

> disclose the nature of your interest as soon as the facts have come to your knowledge.

And then (4) says, well, it would be a sufficient disclosure interest if you gave a general notice to the board presumably at any time. So the first board meeting you say, I am the owner of X travel service, which may have some dealings with the Authority, and that according to (4) would:

> "be a sufficient disclosure of interest in relation to any transaction,"

Am I seeing phantoms? Or should (4) now go away?

Sen. Al-Rawi: Yeah.

Sen. Prescott SC: And there would be no such thing as a general notice.

Sen. Al-Rawi: Which is a dilution.

Sen. Prescott SC: While you think about it, the second one is, ought we not to make provision—

Sen. Nicholas: We can discuss it.

Sen. Prescott SC: I will wait, yes.

Sen. Nicholas: I would have thought that being able to give a general notice gives an initial warning to board members as to where you stand, and subclause (1) deals with issues where you might have omitted something or you may not have realized something and then that comes to light. So there is a difference.

Sen. Prescott SC: I do think however, that 18(1) in the way we have now fashioned it speaks to a specific transaction, the trip to Korea, I am the travel agent. And I may say when I am challenged, well I did give a general notice at the beginning that my business is that of travel agent. So I do not have to come back and tell that I sent the Chairman to Korea. He paid me rather for that trip which is what (4) seems to cover, that the miscreant may always point to (4) and say I have given a sufficient disclosure, pursuant to 18(4), and it is your fault that you did not remember I told you from the very beginning.

Sen. G. Singh: Chairman, I think that you cannot prevent people from giving a general notice. But what I think is in the latter part of (4) where it regards it as being "sufficient disclosure". I think that is the problem. Because you may want to, at the beginning of any board term, you may want to give a general notice, no

transaction has taken place, but I do not think that you can have a blanket situation where that would be sufficient regardless, sufficient disclosure of a conflict of interest.

Sen. Al-Rawi: And legislated that way as well.

Sen. Vieira: So, following what you were saying, I was going to suggest, subclause (4) would read, "subject to subclause (1), a general notice may be given" and then you stop, full stop at Authority after (b).

Sen. G. Singh: Yeah. I think that is the way to solve the problem and not dilute it.

Sen. Al-Rawi: May I also on subclause (3)—

Mr. Chairman: Before we go to (3) let us have a consensus on what have just been revealed on (4). Let us see if we have it right.

Sen. G. Singh: Sure.

Sen. Prescott SC: It should read, subject to subclause (1) a general notice given to the board—sorry—a member of the board or a member of a committee may give general notice.

Sen. Vieira: A general notice may be given by a committee or a member.

Sen. Prescott SC: We are deleting "For the purpose of this section", eh.

Sen. Al-Rawi: Correct.

Sen. Nicholas: Yes, Mr. Chairman, subsection 18(4) therefore, will read, "Subject to subsection (1)"—

Sen. Prescott SC: A general notice.

Sen. Nicholas:—"a general notice may be given".

Mr. Chairman: A general notice may be given.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Then delete "shall be deemed to be" at the end of (b).

Sen. Prescott SC: The last two lines.

6.45 p.m.

Sen. Vieira: Sen. Small has been saying, what is the sanction if the disclosure has not been made? I do not have an answer to that but I just want to draw reference in the procurement legislation, you would recall that there were

provisions for things of this nature. Procurement contracts and things may be set aside and that sort of thing. So should there be some sort of sanction for endangering such an important exercise because of a wilful non-disclosure? I think that is what Sen. Small wants to deal with.

Sen. Small: That is where I was going, Sen. Vieira. I am saying that—in using the AG's words—if it subsequently comes to light that a board member, for whatever reason, but not directly from him—it comes to light that he did not disclose, how is that to be treated with?

Sen. Vieira: Correct. What is the effect?

Sen. Small: Yeah, what effect? Because it cannot be that it comes to light from the *Mirror* or the *Express* or the *Guardian* that there was a transaction to which he was a related party, and then we just sit back and say, "Well, okay, it is fine." I do not think that is good enough.

Sen. Al-Rawi: So transactional effect as opposed to personal effect.

Sen. Nicholas: Now, there is a general penalties clause in 263(1).

Sen. Prescott SC: 263? What page is that? 141?

Sen. Al-Rawi: 142—sorry, 141.

Sen. Prescott SC: Commits an offence? No.

Sen. Al-Rawi: "A person who commits an offence under this Act". So we would have to make the prescription that you commit an offence. Right? But this would attract the personal liability issue for non-disclosure to the member of the board or the committee. The question on the table is whether the transactional sanction should also be invited into the equation, and I think it should.

Sen. Small: I think it should.

Sen. Prescott SC: And AG, I do not think it is only a matter for criminal sanction. There may be recovery of moneys required.

Dr. Mahabir: Okay. One clarification, on the same matter. With respect to 10(6), I know we are still drafting, but would this constitute misbehaviour in office? Because if he misbehaves in office, there is a sanction in 10(6) that he can be removed by the Minister. So if he misbehaves—if failure to disclose is deemed to be misbehaviour in office, there is a sanction in 10(6) already. The Minister has the opportunity to remove him and I think that is an important sanction if, in fact, failure to disclose constitutes misbehaviour. But I take guidance from you on it.

Sen. Al-Rawi: Unless his pocket is extremely filled by then and he does not mind being moved. [*Laughter*]

Mr. Chairman: Extremely filled—overflowing.

Sen. Prescott SC: Yes, he may not mind losing his office at that point.

Sen. Al-Rawi: He may take the loss of office for adequacy.

Sen. Nicholas: No, but I like the idea of making contracts voidable.

Sen. Al-Rawi: And the example is to be found in the procurement law.

Sen. Nicholas: Yes.

Mr. Cadiz: No, but in all these contracts, you do have those clauses, that if there has been any—

Sen. Al-Rawi: No, Sir.

Mr. Cadiz: Yes.

Sen. Al-Rawi: No, Sir. I have done many, many, many, many contracts and it is not a covenant in the contract. In fact, it is the exact opposite because the person in the bargaining position with the Authority is not aware that the representational side of it is wrong. In fact, omnia praesumuntur rite et, rite et esse acta, the law will presume that something is right that should be right. So you cannot suffer a loss of bargain as the person with whom the Authority is contracting as a result of some malfeasance on the Authority's side, when you have been agreed to bind yourself by the representations implied or expressed.

Sen. G. Singh: Chairman, I think it is generally accepted now with the tone there that there has to be a penalty for failure to disclose and it includes the avoidance of the transaction as a result of non-disclosure. What we need to do is to get from the technical people the appropriate clause.

Sen. Al-Rawi: And insofar as it may take some time to get there, not that we could not press on, may I just flag out, subject to your convenience, Mr. Chairman, and others, just an observation on subclause (3) of the same clause? And that is, the expression "company or undertaking". I recall recently in another piece of legislation we looked at just a little while ago—I cannot remember which one—that we had used the expression "enterprise". Does "undertaking" capture every type of entity: partnership, association, NGO, things that are other than corporate entities under the Companies Act?

Sen. Prescott SC: I find it wider—

Sen. Al-Rawi: I would want it to be wider. I just want to make sure that it is. Because the definition of "undertaking" is different from "company" or "individual" or "person".

Sen. Vieira: Undertaking is defined as a word used in EC competition policy to describe a company, firm or economic entity. But it could also be a promise, especially a promise in the course of legal proceedings.

Sen. Prescott SC: That is the verb.

Sen. Vieira: That is the verb.

Sen. Prescott SC: I think it is wider than "enterprise".

Sen. Al-Rawi: So long as it can constitute a vehicle to capture the mischief we are looking at, is the only thing I am concerned with. Thank you, Sir.

Mr. Chairman: Is there any other on 18? 20? Because we did, in fact, say 18 to 20.

Sen. Al-Rawi: I have a concern on clause 19, Sir.

Sen. G. Singh: We are coming back to 18.

Mr. Chairman: We are coming back to 18? Okay.

Sen. Small: Mr. Chairman, I just want to extend my appreciation to the Government side for listening to my views on this. I felt that this is a fundamental issue that goes to how these organizations are managed and I will continue to reiterate that there are people in organizations not doing the right things and there need to be penalties applied, and I appreciate that the Government has taken on my suggestion and recommendation and it is much appreciated.

Clause 19.

Question proposed: That clause 19 stand part of the Bill.

Mr. Chairman: Clause 19, anything there?

Sen. Al-Rawi: Yes, Sir. If I may, through you, Mr. Chairman, 19(1):

> "The Authority shall have a common seal which shall be kept in the custody of the Chairman, the Deputy Chairman or the Secretary to the Board."

Good. Listen to (2):

> "The common seal of the Authority may be affixed to instruments pursuant to a resolution of the Board in the presence of the Secretary—

(a) the Chairman or in his absence…"

The word "and" is perhaps missing. Was it intended that "and" should be there?

"The common seal of the Authority may be affixed to instruments pursuant to a resolution of the Board…"

You want to say, "by the Chairman in the presence of the Secretary", but you do not say that. You say:

"…pursuant to a resolution of the Board in the presence of the Secretary…"

Mr. Cadiz: And the Chairman.

Sen. Al-Rawi: "and", but you do not say who affixes it. It is usual to say instead:

"It shall be affixed by the Chairman or in his absence, the Deputy Chairman in the presence of the Secretary."

You know, the Secretary would usually come after and you make it a positive action. It must be affixed by someone in the presence of X. So the standard jurat in law that we use, in fact, is: the common seal of X company limited was hereunto affixed by John Brown, its secretary in the presence of X, its director. But this does not say that.

Sen. Prescott SC: And (3) is a different application.

Sen. Al-Rawi: Yeah, I was just coming to that. In (3):

"The common seal of the Authority shall be attested by the signature of the Secretary and the Chairman or…"

In segregating it out, it appears to be a different activity from (2), and therefore, that is a little unusual. And then in (4):

"All documents other than those required by law to be made under seal and all decisions of the Board may be signed by the hand of the Chief Executive Officer, Secretary or the Chairman or in the absence of the Chairman, shall be signed by the Deputy Chairman, or any other person authorised to act..."

I think that we probably would want to say instead of "person", "another person who is a member of the board of directors"—"a member of the board of directors". It cannot just be by any person. I am not sure. Did we want to just have it that the board can delegate its authority to sign something to just anybody? I could see circumstances where that could be the case. I just wanted to make sure that we are capturing what it is we want to say. Because it is "All documents other than those required…to be…under seal". So is it a letter, is it—

Sen. Nicholas: Any other person.

Sen. Al-Rawi: No. It may be "person" in some circumstances, somebody with delegated authority to do something because we have created a power which is a delegated one higher up in the law.

Sen. Nicholas: Well, we probably would not want to—

Sen. Al-Rawi: So I was not sure which circumstance we were going for, that the delegatee may, in fact, bind the Authority under the agency in principle.

Sen. Nicholas: It would probably be another member of the board. I prefer it to be another member of the board, as any other arbitrary or authorized person.

Sen. Al-Rawi: Registrar, Secretary. I am not sure, AG. I am just asking the question to make sure—on the one hand I can see circumstances where a person duly authorized ought to be given a power, and in other circumstances where it ought to be prescribed.

Mr. Cadiz: You should not have any other person signing—

Sen. Al-Rawi: Could we sweat it this way? If I ask—it is not documents under seal. What documents are we envisaging here? Was the legislative intention behind this subclause to make sure that not just anybody could sign something? Because it is not documents under seal. Under seal it is Secretary and Chairman and we have prescribed how we do that. So that is taken care of in the subclauses higher up. It is all other documents now.

So a guarantee, for instance, is not required to be dealt with under seal. It is just done under hand. So a guarantee is an important document, but there may be some agency agreement which somebody is given a delegated authority and you may want that person to sign. So I do not know which circumstance we are catering to.

Sen. Nicholas: Mr. Chairman, we would like to suggest the following amendment, that:

"Registrar" be included after "Chief Executive Officer" and the rest of it stays, and that is 19(4).

Mr. Chairman: That is in (4)?

Sen. Nicholas: Yes.

Mr. Chairman: You are deleting "Chief Executive"?

Sen. Nicholas: No. We are inserting after "Chief Executive Officer", "Registrar".

Mr. Chairman: So it reads as follows:

"(4): All documents other than those required by law to be made under seal and all decisions of the Board may be signed by the hand of the Chief Executive Registrar—

Sen. Al-Rawi: "Officer".

Sen. Nicholas: "Chief Executive Officer".

Mr. Chairman: "—Secretary or the Chairman…"

Sen. Al-Rawi: Insert after "Officer", "Registrar,".

Sen. Nicholas: "The Chief Executive Officer, Registrar…"

Mr. Chairman: "the Chief Executive Officer, Registrar, Secretary or the Chairman or in the absence of the Chairman, shall be signed by the Deputy Chairman, or any other person authorised to act for that purpose."

Sen. Nicholas: Yes, Mr. Chair.

Sen. Dr. Mahabir: It has to be authorized by the board. Who authorizes? It has to be authorized by the board. "any other person authorised" by whom? You see, that, to my mind, is important. The board has to authorize that person.

Mr. Chairman: But it also says "all decisions of the Board". So the whole thing emanates from the board.

Mr. Cadiz: All decisions.

Dr. Mahabir: So that person has the authority of the board. Very well.

Mr. Chairman: Anything else on 19? We have 20.

Sen. Al-Rawi: So we are going to add in the word "and" in subclause (2)?

Sen. Nicholas: Subclause (2) to read:

"The common seal of the Authority may be affixed to instruments pursuant to a resolution of the Board…"—by—

(a) the Chairman or in his absence, the Deputy Chairman; or

(b) a member of the Board authorised to act in that behalf in the presence of the Secretary."

Sen. Al-Rawi: I do not think that that catches it. I am not sure.

Sen. Prescott SC: Did you mean "authorised in the presence of the Secretary"? Or did you mean the affixation must be done—the affixing must be done in the presence of the Secretary?

Sen. Nicholas: "in the presence of the Secretary" is a separate line.

Sen. Prescott SC: The affixing shall be done in the presence of the Secretary?

Sen. Nicholas: Yes, correct.

Sen. Prescott SC: So "The common seal of the Authority may be affixed to instruments…in the presence of the Secretary."

7.00 p.m.

Sen. Al-Rawi: You have to put a positive obligation on the Secretary to attest same (2). So it is both. I think your team needs to probably pull up, respectfully, a model from somewhere else that could probably catch the wording. Perhaps you may wish to defer it to allow them a little time?

Sen. Vieira: I want to agree with Sen. Al-Rawi because when you are dealing with formalities for the execution of the documents and you are putting it as a law, you may find yourself having documents set aside because the formalities were not complied with—

Sen. Al-Rawi: Correct.

Sen. Vieira:—and we have to be very precise in our language. You see, in the Companies Act, there is provision that can deal with offsetting, but this is statute so we got to be very careful here dealing with actual authority, ostensible authority, purported authority. Those are the issues here.

Sen. Al-Rawi: And this can void legally major transactions.

Sen. Nicholas: 19(2), the proposed drafting is actually quite standard drafting.

Sen. Prescott SC: Let us hear it again.

Sen. Nicholas: 19(2):

"The common seal of the Authority may be affixed to instruments pursuant to a resolution of the Board by—

(a) the Chairman or in his absence, the Deputy Chairman; or

(b) a member of the Board authorised to act in that behalf."

Sen. Prescott SC: And then you extend?

Sen. Nicholas: And then you extend "in the presence of the Secretary".

Sen. Vieira: When you do it that way then I would say it is customary, but the way it was originally couched was not customary at all.

Sen. Prescott SC: Okay. So "in the presence" becomes an extension?

Sen. Nicholas: Yes.

Sen. Al-Rawi: But does "in the presence" put the positive obligation on the Secretary to attest as well?

Sen. Nicholas: Yes.

Sen. Prescott SC: Well, row three does that.

Sen. Vieira: Yes, (3) takes care of that.

Sen. Prescott SC: So the Secretary is present and certainly will sign at the same time.

Mr. Chairman: So you are deleting "in the presence of the Secretary"?

Sen. Al-Rawi: Senior, if you could bear me out on this. Because we separate (2) and (3), look at (3) now:

> "The common seal of the Authority shall be attested by the signature of the Secretary and the Chairman or in his absence, the Deputy Chairman or such member authorized by the Board to act in that behalf."

Does that marry with (2)?

Sen. Nicholas: It does exactly.

Sen. Al-Rawi: It seems to be duplicitous in some senses.

Sen. Prescott SC: Well, not duplicitous at all. Duplicated, perhaps.

Sen. Al-Rawi: Duplicated. Yes, not duplicitous. Duplicated.

Sen. Prescott SC: But it does seem to me that they are affixing, having been done in the presence of the Secretary and the attesting having been done by Secretary, they would be both done at the same time. If affixing means squeezing the thing on the piece of paper—if affixing means crunching the seal into the paper, that could be done by John but it must be done in the presence of the Secretary and that person must attest.

Sen. Al-Rawi: Okay.

Sen. Prescott SC: So as it is now, it looks like two actions and it could be reduced into one, but it does not cause confusion.

Sen. Al-Rawi: Okay. Thank you. Thank you for the clarity. Crunching versus signature. I appreciate it, Senior.

Mr. Chairman: So, should it read as follows then:

> "(2) The common seal of the Authority may be affixed to instruments pursuant to a resolution of the Board by—
>
> (a) the Chairman or in his absence, the Deputy Chairman; or
>
> (b) a member of the Board authorised to act on behalf."

Sen. Nicholas: "in that behalf,"

Mr. Chairman: "in that behalf, in the presence of the Secretary".

That is it?

Sen. Nicholas: Yes. That is it for 19.

Question put and agreed to.
Clause 19, as amended, ordered to stand of the Bill.
Clause 20 ordered to stand part of the Bill.
Clause 21.
Question proposed: That clause 21 stand part of the Bill.

Sen. Nicholas: Mr. Chairman, I beg to move that clause 21 be adopted as amended by the circulated amendment:

Clause 21	(2) Delete the word "fix" and substitute the word "determine".

So that it shall be read as follows:
"The Authority shall, subject to the approval of the Minister, determine the qualifications and experience…"
Question put and agreed to.
Clause 21, as amended, ordered to stand part of the Bill.
Clauses 22 to 24 ordered to stand part of the Bill.
Clause 25.
Question proposed: That clause 25 stand part of the Bill.

Mr. Chairman: Sen. Prescott, please.
Sen. Prescott SC: Pardon me. Clause 26 is what I am concerned with. I am sorry.

Clause 25 ordered to stand part of the Bill.
Clause 26.
Question proposed: that clause 26 stand part of the Bill.

Mr. Chairman: Sen. Prescott?
Sen. Prescott SC: Chair, in looking at clause 26, in trying to persuade Senators that the Regional Health Authority Act does offer a better way of "languaging" what is said here, equally important, 26(c) leaves me to ask: if not, then what? What clause 26(c) says:

"A person who, on commencement of this section is a public officer...shall

within three months of the date of commencement of this section exercise...the following options:"—that is being one of its options.

"...remain in the Public Service provided that an office commensurate with the office held by the person in the Public Service prior to the date of the assent of this Act is available."

So what if he chooses to remain and there is no office commensurate, does he suddenly become unemployed?

Sen. Nicholas: And he does not have that option.

Sen. Prescott SC: I beg your pardon?

Sen. Nicholas: And he does not have that option. The option is only available if there is a position.

Sen. Prescott SC: So such a person loses his employment in the public service?

Sen. Nicholas: No, he will have to exercise either (a) or (b).

Sen. Prescott SC: So we are limiting what is available to him? You either go into oblivion or you transfer? I am sorry. I am not quite certain that we can interfere in his contract of employment in such a cavalier fashion and say take it or leave it.

Sen. G. Singh: Chairman, I want to lend a bit of practical experience in this area.

Mr. Chairman: Please do.

Sen. G. Singh: This is the common Chief Personnel Officer formula. You voluntarily retire from the public service on terms and conditions as agreed. So that there is a VSEP Programme, a Voluntary Separation Programme, that is an enhanced programme. Secondly, you transfer to the new entity with the necessary new terms and conditions, but all your benefits are preserved and they go with you in the context of the public service. And thirdly, then if you choose to remain within the public service, then you have appropriate designations.

For example, when you have—I am dealing with this thing right now coming into being of the forested and protected areas authority, where persons who are within the public service, these are the three options. Now, generally what happens, people have to make a choice between these three options. So it is not that you are left without options, but you have to make a choice and these are the three options, and generally what happens is that if you are not satisfied where they are putting you in the public service, you then choose either one of the two options.

Sen. Prescott SC: The Industrial Court has the view that you cannot force someone to voluntarily retire.

Sen. G. Singh: Well I agree and that is a matter—I mean, I will tell you this too. This matter was tested in the High Court with TTPost.

Sen. Dr. Tewarie: Yes. Could I say something in support of the Leader of the House? The formula here is the same thing as we had in the planning Bill and it is generally referred to now as the TTPost model. So I do not think it is something that is alien to the tradition of legislation on this matter within recent times.

Sen. Vieira: And I think that the object of the provision is not to force voluntary retirement, you know. It is for the public service officer to be able to keep his pension and all his other benefits he accumulated all those years.

Sen. Dr. Tewarie: Everything carries.

Sen. Vieira: So you are giving him the option, but what you did not want was people who were fit and proper and had been an asset to this new authority, do not want to come across because of fear of losing all of their emoluments and benefits. So I think that is—[*Interruption*]

Sen. Prescott SC: What does such a person do?

Sen. Vieira: You cannot be having two masters. You have to leave one and go and take up employment with the other, but you do not lose your pension benefits and your allowances and emoluments. Is that what it is ?

Sen. G. Singh: Yes, and it works, eh. At a practical level it works.

Sen. Prescott SC: Have we looked at the Regional Health Authority Act to see if it—

Sen. G. Singh: Well that is the trouble. The trouble with the Regional Health Authority Act is that they were parallel streams and there are those who came into the Regional Health Authority, higher salary, different master so to speak, a different hierarchical authority, and those who retain within the public service and have a different disciplinary process and everything else and the twain never met and that, therefore, there was an inherent flaw in the conceptual DNA of the Regional Health Authority and you cannot replicate here. This is the formula that works in any new entity in utilizing the public service designation.

Mr. Chairman: You are quite correct with that explanation as it relates to the Regional Health Authority.

Sen. Small: And I wish to join in and say that that is my understanding also. I have publicly personally experienced this so I understand that and it is not unusual. I think this is a pretty standard formula. I have no issue with this.

Sen. Dr. Mahabir: And may I also join in from my angle. I think 26(b) for me is very important. As long as you can transfer to the Authority with the approval of the commission on terms and conditions no less favourable than those enjoyed, and I think that really protects the worker as he moves from one employer to the next.

Mr. Chairman: Yes, Sen. Wheeler.

Sen. Dr. Wheeler: The union— who is going to represent the workers in the new Authority?

Sen. G. Singh: There is always a provision for successorship.

Sen. Dr. Wheeler: The reason I ask that is that with the RHA, the PSA had resisted vehemently because they did not have a VSEP option in the beginning. That only came in about 10 years after. So this formula seems as if it may be a little bit more successful, but the issue of the representation—

7.15 p.m.

Sen. G. Singh: From a policy perspective, we have gone further in legislation, certain legislation, where we not only provide for successorship but we provide for recognition of that successorship. Because you know from experience, the recognition and certification board is—takes a long time to recognize successor unions when you have new entities. So what we provide in the legislation now is that you provide for, not only successorship but you have a continuance of representation of employees. A very enlightened approach.

Sen. Prescott SC: But, Chair, this is precisely where I think the Regional Health Authorities Act offers the protection because it speaks in sections 31 and 32 to the collective bargaining body—the relevant representative association being acknowledged by the new Act, and persons' right to be represented by that association is contained therein. If you look at—may I read sections 31 and 32 of the RHA Act? It says:

> "31.Subject to any written law employees of an Authority who have transferred from the Public Service"—for which, read licensing—"shall for the purpose of collective bargaining, continue to be represented by the relevant representative association that formerly represented them."
>
> 32. Any agreement applicable to former officers in the public service or a statutory authority who have transferred to the service of an Authority shall be valid and binding on the relevant representative association and the Authority and shall be deemed to be registered under the Industrial Relations Act."

So it seems to me that a statutory protection of the representation is taken care of, it is accounted for here, so that any worker who is concerned to transfer as per clause 26 may take into consideration that his protection continues into the new body. That seems to be missing from this legislation and I had asked whether, when we were dealing with the functions of the Authority, that reference to—and

if you would permit me, I will read it. Was it (vi) that spoke about? Page 10 (vi). Yes, that is it. That reference in—

Mr. Chairman: During the transition in 1994 of that said Act, the daily-rated workers had a problem relative to successorship, and when we did and in fact came back, the successorship was placed there and there was no difficulty as long as it says successorship by the standing union that previously represented them.

Sen. Prescott SC: You are right, Chairman, and this Act does not appear to have covered that. Does it?

Sen. G. Singh: No, I am advised that it has not.

Mr. Chairman: I did in fact enquire and I was told that at some part of the Bill that successorship will be inserted.

Sen. Prescott SC: Those words do not appear to have been used.

Sen. G. Singh: It is not currently there.

Mr. Chairman: It is not currently there so I think it is what Sen. Prescott had said, we need to say where it would be inserted to cover.

Sen. Prescott SC: Thank you very much. So that for the moment, I say cross-refer that clause 26 with clause 7(2)(b)(vi) and compare the Regional Health Authorities Act provisions at sections 26 to 32.

Mr. Chairman: So if I may ask, where are you suggesting that it should be inserted here now that we are in 26?

Sen. Prescott SC: I am thinking that it is more than an insertion. [*Crosstalk*] We have to address clause 7(2)(b)(vi) and clause 26 and seek to arrive at something that approximates to what is provided in sections 26 to 32 of the Regional Health Authorities Act, more particularly 31 and 32.

Sen. Vieira: The Chair picked up on it "early o'clock".

Sen. G. Singh: But that is consistent with our policy position but that there is an omission here.

Sen. Prescott SC: So the only question now is, for the purpose of *Hansard*, will we deal with it today or shall we hear from the—

Sen. G. Singh: No, we will deal with it when we meet next.

Sen. Prescott SC: When we meet next, thank you. So are you returning to Standing Order 9 at this time?

Sen. G. Singh: No, no, not at all. We are proceeding well and it seems that—yeah, we are proceeding well.

Mr. Chairman: So, will there be a deferral of clause 26?

Sen. G. Singh: No, 26 is as is but we have given the undertaking that there will be successorship and recognition and certification of employee representation in a particular clause. So we could proceed with clause 26.

Question put and agreed to.

Clause 26 ordered to stand part of the Bill.

Clause 27.

Question proposed: That clause 27 stand part of the Bill.

Sen. Prescott SC: Clause 27(4) says:

> "Subject to the approval of the Authority, the appropriate Service Commission and with the consent of an officer, an officer in the Public Service or a Statutory Authority may be transferred to the service of the Authority on such terms and conditions to be determined by the Authority."

As I am reading it again, I am reminded that in light of what we are doing, what we have just confirmed, that we will do in relation to the representation that I need not trouble myself about 27(4). Thank you very much.

Mr. Chairman: Okay, thank you.

Sen. G. Singh: Through you, Chairman, as you would know, this is a common practice in the public service where there is secondment under public policy for three years.

Question put and agreed to.

Clause 27 ordered to stand part of the Bill.

Clause 28.

Question proposed: That clause 28 stand part of the Bill.

Sen. Prescott SC: A very minor observation, the true name of the Act is State Liability—singular—and Proceedings. So if it could be corrected both in the margin and in the body of the—at lines 1 and 3. That is all.

Mr. Chairman: So is it then that it is just Liability and not Liabilities?

Sen. Nicholas: Liability.

Mr. Chairman: Oh, Liability. Okay.

Question put and agreed to.

Clause 28, as amended, ordered to stand part of the Bill.

Clause 29.

Question proposed: That clause 29 stand part of the Bill.

Sen. Prescott SC: I have a question on clause 29 but I will give way.

Sen. Robinson-Regis: Thank you very much, Mr. Chairman. I am looking at 29(1) where it talks about having:

> "…the immunities given by any written law from time to time in force to any member of the Police Service."

I would like to also find out if the persons who have been given this immunity also have the liabilities that the members of the police service may have and any other powers that the members of the police service may have. Because this seems—

Sen. Nicholas: It is only powers and duties conferred under this Act.

> **Sen. Robinson-Regis:** "…in the exercise of his powers and duties conferred under this Act, have the powers, authorities and privileges and immunities…"

Would they be liable as in the same way that a police officer would be liable if they perform their duty?

Sen. Prescott SC: For that purpose, read clause 28. They are now agents of the State which—

Sen. Robinson-Regis: So the liability, they would be covered, all right. And I want to find out, 29(4) and (5) with regard to the approval of the Minister for the badge and the uniform. I just found that a little strange that the Minister would have to be the one approving the badge and the uniform. [*Crosstalk*] The manual, the badge and the uniform. Why would it be the Minister who would have to approve the manual, badge and the uniform?

Sen. Nicholas: Because it is a Cabinet decision.

Sen. Robinson-Regis: The manual, the badge and the uniform are Cabinet decisions?

Sen. Nicholas: Yeah, in particular the uniform.

Sen. Robinson-Regis: Okay.

Sen. Prescott SC: I have a question on 29(2), will these officers be offered firearm-user licences. Will it be required at all?

Sen. Nicholas: No, it is not envisaged.

Sen. Prescott SC: No, thank you.

Question put and agreed to.

Clause 29 ordered to stand part of the Bill.

Clause 30.

Question proposed: That clause 30 stand part of the Bill.

Sen. Prescott SC: I have something on 30. If you would bear with me, should I read part of 30? It says:

"Subject to section 31, a person other than a Motor Vehicles Enforcement Officer shall not—

(a) put on or assume, either in whole or in part the…name…of a Motor Vehicles Enforcement Officer…"

Now, David Thomas will be a name that the person assumes at birth, how on earth could he be offending anyone, more particularly being convicted of a criminal offence if there is a Motor Vehicles Enforcement Officer by that name?

Sen. G. Singh: No, I think the "name designation".

Sen. Prescott SC: There is no comma after "name"? Is that what you mean?

Sen. G. Singh: There ought not to be.

Sen. Prescott SC: Just "name designation".

Sen. G. Singh: Just "name designation".

Mr. Chairman: We will remove the comma.

Sen. Prescott SC: And what, pray, does "name designation" mean?

Sen. Nicholas: No, it is name comma designation.

Sen. Prescott SC: Like Motor Vehicles Enforcement Officer I?

Sen. G. Singh: The "name designation" from what I gather from this practical

thing is that you will have your name like "name" as part of your uniform exhibited.

Sen. Prescott SC: So that a Motor Vehicles Enforcement Officer whose name is Ganga Singh may take you to court because you have assumed the name Ganga Singh at birth?

Sen. G. Singh: No, no, that you have on a uniform. You are not an enforcement officer but you have a uniform with the name designation Ganga Singh and you are not that licensing enforcement officer.

Sen. Prescott SC: Does that come very clear to you from reading 30(1)(a)? Or let us go on, I am continuing from second line:

> "…or a uniform, name or designation, resembling…"—that of a—"name or designation of a Motor Vehicles Enforcement Officer;"

So "name or" suggests that those are two separate things and so—well, I would not repeat your name—John Brown—

Mr. Chairman: "…resembling and intended to resemble the uniform…"

Mr. Cadiz: One is the actual uniform and one is resembling.

Sen. Prescott SC: Okay. So "intended to" is an offence but "resemble"? Okay, what are we after? That a person must not—

Mr. Cadiz: Impersonating an MVA Officer.

Sen. G. Singh: Impersonation.

Sen. Prescott SC: Can we not just simply start with the word impersonate?

Sen. Nicholas: I agree.

Mr. Chairman: It makes it much clearer.

Sen. Dr. Mahabir: But, Mr. Chairman, could we not just strike off (a) and just go to (b)? You see:

> "Subject to section 31, a person other than a Motor Vehicles Enforcement Officer shall not—"

And we can say:

> impersonate or—"pretend to be a Motor Vehicles Enforcement Officer for any purpose."

Yeah, and strike off the first part. Impersonate or pretend to be a Motor

Vehicles Enforcement Officer for any—

Sen. Brig. Alfonso: I think you can delete "name" because you must have your name tag on that says who you are. But you can take the "name" off and just say impersonate.

7.30p.m.

Sen. Vieira: I just want to give a caution. I prefer "impersonate". There is, I think, an offence under the Summary Offences Act for impersonating policemen or soldiers in uniform. I just want to remind you, the way this "pretend to be…for any purpose", we have a culture of calypso and mamaguy—at J'Ouvert you want to play you are an enforcement officer or you are on the stage—you would now be afoul of this law.

Sen. Prescott SC: You cannot play a policeman.

Sen. Vieira: Really what we want to talk about is impersonation or pretending for an unlawful purpose.

Sen. Prescott SC: You could wear the stripes upside down but you cannot play a policeman.

Mr. Chairman: Whether culture or not, you are not supposed to be impersonating.

Sen. Prescott SC: You could wear the stripes upside down or the cap back to front but you cannot play a policeman.

Mr. Cadiz: But you cannot impersonate a police officer regardless of what season it is, or an officer of the regiment or anything like that.

Sen. Prescott SC: Mr. Chairman, may I suggest that in going along with Sen. Vieira, that is to say, who said impersonate or pretend, that we make reference, however to uniform and designation? So that impersonation would include by reference to the uniform or the designation.

Mr. Cadiz: Is there a difference between impersonating and pretending?

Sen. Prescott SC: Yes, there is a fellow who stands at my street corner and pretends to be a traffic warden.

Mr. Cadiz: Yeah, but does he do a good job though?

Sen. Prescott SC: Nah, you could see he is pretending.

Sen. Nicholas: He is not impersonating.

Sen. Prescott SC: But he is not impersonating.

Sen. Vieira: But you could be caricaturing the office without pretending or impersonating and wearing the uniform.

Sen. G. Singh: Are we proceeding for purposes of the Chair?

Sen. Prescott SC: "Subject to section 31, a person other than a Motor Vehicles Enforcement Officer shall not in any way impersonate or pretend to be a Motor Vehicles Enforcement Officer by reason of or by reference to the uniform or designation."

Mr. Chairman: Something seems ambiguous.

Sen. Prescott SC: Yes, I am not certain that we need to go that far.

Sen. Dr. Mahabir: We do not need to go there. My point is once you are pretending or impersonating everything else follows and then you do not need to qualify impersonation.

Mr. Cadiz: I am just drawing reference. The officers right now, they wear a white shirt and a pair of blue trousers. Everybody owns a white shirt and a pair of blue trousers.

Sen. Prescott SC: I am withdrawing, all right?

Mr. Cadiz: So, to say that you are going to impersonate by wearing the uniform, it is the action that you are going to be—

Sen. Dr. Mahabir: To simplify the thing, we cannot impersonate or pretend to be a Motor Vehicles Enforcement Officer for any purpose, and I think that is going to fulfil the requirements of what we are intending to do.

Sen. Prescott SC: Okay. So it now becomes 30(1) without. Pardon me, Mr. Chairman, I will endeavour to do it once again.

> Subject to section 31, a person other than a Motor Vehicles Enforcement Officer shall not impersonate or pretend to be…

which is to be picked from (ii). We delete (a) and we amend (b). So it becomes one subsection only.

Sen. Vieira: If I may read the Summary Offences Act:

> "A person not serving in the Trinidad and Tobago Defence Force shall not wear, without the Minister's permission, the uniform of any member of that Force, or any dress having the appearance or bearing…"

But then it goes on to say:

> This enactment shall not prevent any person from wearing any uniform or dress in the course of a stage play performed in a place duly licensed or authorized for the public performance of stage plays, or in the course or any bona fide military representation."

I just say we have to be cognizant that we do have these events and we do not want to draft the law in such a way that people who are doing a caricature or a presentation run afoul of the law.

Sen. Prescott SC: This might have been before a certain mas player introduced the word "the m'as" and said it played on the stage.

Sen. Nicholas: So moving on from Minshall.

Mr. Chairman: Is it then that we are deleting the entire (a) and have the word (b) as part of what we want? The whole of (a) would be deleted?

Sen. Nicholas: (a) would be deleted and (b) would read—30(1) would read:

> **Sen. Prescott SC:** Subject to section 31, a person other than a Motor Vehicles Enforcement Officer shall not in any way impersonate or pretend to be a Motor Vehicles Enforcement Officer.

Mr. Chairman: You are deleting "for any purpose"?

Sen. Prescott SC: Yes, and then Sen. Vieira's reference to stage and theatre.

Sen. Vieira: Would be 30(2).

Sen. Prescott SC: Yes, could be appropriately introduced as 30(2). AG?

Sen. Nicholas: Yes, and Sen. Vieira, could you kindly read into the record 30(2)?

Sen. Vieira: The relevant section would read:

> This enactment shall not prevent any person from wearing any uniform or dress in the course of a stage play performed in a place duly licensed or authorized for the public performance of stage plays.

Mr. Chairman: Why do we have to have the differentiation of stage play when you have already indicated that you ought not to impersonate? Why then do we have to think in terms that if you are on a stage gives you the right that you could break the law?

Sen. Vieira: But you are not breaking the law. You are doing a caricature. I

do not think that we are talking about doing a movie industry in this country. You may very well have a street scene and you are playing police and you are playing soldiers. The law is the law, you know. We have to be very careful not to break the law.

Sen. Brig. Alfonso: You can dress in the uniform but you cannot wear their badges of the organization. In other words you cannot put on a six-pointed star on a uniform to look like a policeman. You could put on some other star, some other thing but not the police badge or the army badge for that matter.

Sen. Dr. Mahabir: Are you taking the Government's policy on this, Mr. Chair?

Sen. Nicholas: I think that—

Sen. G. Singh: Look, we promote the creative arts and that, therefore, we ought not to put any stumbling blocks in the creative arts area and, therefore, it is an appropriate addition to the legislation. The critical thing is for the Chairman now to get it in writing. In other words, I am saying—

Mr. Chairman: I hope the Chairman is not the stumbling block. [*Laughter*]

Sen. G. Singh: We need to get it slowly for the Chairman.

Mr. Chairman: So, please, Sen. Vieira.

Mr. Cadiz: Is there somewhere you can put in the exercise of the official duties or something of the officer? In other words, as Sen. Vieira says if you are in a play dressed up in a lookalike outfit but you are not exercising the actual duties of the officer. I do not know in law how that works.

Sen. Vieira: I would keep it. So (b) would read:

This enactment shall not prevent any person—

Sen. G. Singh: You have to do it at the pace of the writing.

Sen. Vieira: This enactment shall not prevent any person from wearing any uniform or dress of a Motor Vehicles Enforcement Officer in the course of a stage play or authorized public performance.

Mr. Chairman: So (b) becomes (a) and this new subsection becomes (b)? That is what we are saying?

Sen. Nicholas: Mr. Chairman, before we go on to 30(2), can we just have a look at 31 and see if it cures your concerns?

Sen. Robinson-Regis: Yes, Mr. Chairman, I would say it does. I have been looking at it but I was waiting for all of you to stop talking.

Mr. Chairman: But you normally would be ahead of us and you would come and tell us.

Sen. Robinson-Regis: I know that, Mr. Chairman, but you know not all the time you want to be ahead of the pack. I think we should look at 31 because I think it may be the solution. I think you would have to add to it a bit because it is not only the written. Apart from the written authorization, you would also have to add something. But I think this one covers it a lot better than how we have described it in the first part. But I think in the chapeau 31(1), we will have to add something to capture the impersonation that we want to cover here.

Mr. Cadiz: Because this covers just the wearing of the uniform and not the actual carrying out of the duties of an officer.

Sen. Robinson-Regis: Yes, so I think we would have to add something. But I feel this captures it and this seems like a repetition of. So we could probably look at it and see.

Sen. Prescott SC: Chair, would I in the circumstances be permitted to comment on clause 31 a little more extensively?

Mr. Chairman: Of course, you have that.

Sen. Prescott SC: Because the registrars of births and deaths still exist, will they be regarded as having authorized somebody to use a name?

Sen. Nicholas: Clause 31 deals with wearing of the uniform.

Sen. Prescott SC: It says:

"…permit or direct any person to—

put on or assume either in whole or in part, the…name…".

Sen. Robinson-Regis: You would have to change it to capture what was said by Minister Singh.

Sen. Vieira: But I see 30(1)(a) as an absolute clause and once you do those things you have contravened the section and you are liable on summary conviction. That is 30(1)(a).

Sen. Prescott SC: We have removed that?

Sen. Vieira: I thought Camille was going back to that.

Sen. Prescott SC: No, she said 31.

Sen. Vieira: Or 31?

Mr. Chairman: Clause 31(1).

Sen. Prescott SC: Unless we, by analogy to what has just been read from the Summary Offences Act, then exclude the actions of registrars of births and deaths in committing the name.

Sen. Nicholas: If we remove 31(1)(a)—

Sen. G. Singh: No, we cannot do that. You notice that there is no comma after "name".

Sen. Nicholas: There still is a comma.

Sen. Prescott SC: It has a comma, first line.

Sen. G. Singh: But the second and third lines there is no comma.

Sen. Prescott SC: Because it says "name or designation". Somebody just said let us strike out the word "name".

Sen. Robinson-Regis: That is what I was just going to say, why do we not remove "name" because it is really the designation that you want.

Sen. Dr. Mahabir: Just take off "name" and see how it will read.

Sen. Robinson-Regis: I agree with that.

Sen. Prescott SC: And each time that it appears in (a).

Sen. Dr. Mahabir: Take off "name". It is causing trouble. It is causing "jhanjhat".

Sen. Prescott SC: "Jhanjhat". How do you spell "jhanjhat"?

Sen. Dr. Mahabir: J-H-A-N-J-H-A-T.

Sen. G. Singh: All right, let us proceed.

Mr. Cadiz: Mr. Chairman, we would redraft clauses 30 and 31 and capture what exactly we want to accomplish.

Mr. Chairman: So clauses 30 and 31 are deferred?

Mr. Cadiz: Yes.

Sen. Robinson-Regis: May I ask then, so clause 30 will capture the aspect of impersonation, which is without authority, without writing, without anything, you just put on the uniform and you impersonate?

Sen. Nicholas: Yes.

Sen. Robinson-Regis: And clause 31 will capture if you are not getting written authority?

Sen. Nicholas: Yes.

Sen. Robinson-Regis: Okay. So that is coming back tonight?

Sen. Nicholas: Probably the next day?

Sen. Robinson-Regis: Are we having a next day? Okay.

Sen. Prescott SC: May I ask for a representation, maybe in words of how does one direct you to pretend to be a Motor Vehicles Enforcement Officer?

Sen. Nicholas: All of that will be dealt with in the redraft.

Clause 32.

Question proposed: That clause 32 stand part of the Bill.

Sen. Prescott SC: I have a suggestion. I did promise Sen. Al-Rawi that nothing will pass. Clause 32(1)(a), the note I have here is that all matters here could certainly not include an illegality.

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

shall at all times preserve and aid in preserving confidentiality with regard to all matters coming to his knowledge…"

And it struck me that such a person could be under an obligation to keep knowledge of an illegality to himself. So there ought to be some tool, some instrument, that permits whistle-blowing by such a person.

7.45p.m.

Sen. Nicholas: Except for the purpose—

Sen. Prescott SC:—an obligation to disclose an illegality, (b) says:

Sen. Nicholas:

"(b) except for the purpose of the performance of his duties or under legal obligation, shall not at any time, communicate any confidential matter…"

Sen. Nicholas: He has legal obligation.

Sen. Prescott SC: I had the impression that that is not what it meant—that he

may be under legal obligation to disclose it to the Ombudsman, well, forget the Ombudsman, to the Comptroller of Accounts, the Auditor General, those persons, but he may not be under an obligation to disclose an illegality of which he is aware.

Sen. Vieira: I tend to agree with Sen. Prescott here, because how I read under legal obligation is, you have been subpoenaed, a court is requiring you to disclose. You now have an obligation to do so, which trumps this, but when it comes to a whistle-blowing provision, you are under no legal obligation to do that. Being a whistle-blower on corruption, and we are talking about the den of iniquity that is the licensing office.

Sen. Prescott SC: Um-hmm. [*Laughter*]

Sen. Vieira: I am quoting the *Express*, right?

Sen. Prescott SC: Oh, so forgive me.

Sen. Vieira: This is a contradiction.

Sen. Nicholas: We must be very careful with how we treat with our institutions, and how they are reported internationally.

Sen. Prescott SC: Yes, yes. We have to be cautious, yes.

Sen. Vieira: But this oath of secrecy would prevent whistle-blowing, so to report on what he is seeing. So I think Sen. Prescott's point is well taken, and we may want to look at that.

Mr. Cadiz: Surely this speaks to the work of the MVA, and not, for instance, of corrupt acts in an organization.

Sen. Prescott SC: Oh, let us read clause 32 (1)(a) again, then Minister:

"Every member of the Board or officer or employee…

(a) shall at all times preserve and aid in preserving confidentiality with regard to all matters coming to his knowledge in the performance of his duties;"

Mr. Cadiz: In the performance of his duties.

Sen. Prescott SC: Yes, so that when he finds, that in the performance of his duty he has been asked by senior officer X, to change the chassis number, give "ah fella ah bligh", he may well feel that he is obliged to say nothing.

Mr. Cadiz: Well, in the performance of his duties, and I would think that if you interpret the performance of your duties, your job, when you took the job, it

identified what these duties would be, and the duties would not incorporate corrupt acts.

Sen. Prescott SC: No, Minister, I probably am not articulating this well. If in the performance of his duties, he becomes aware of a corrupt act on the part of another officer, should he remain silent? Because he must report all—he must what?—preserve "his confidentiality with regard to all matters coming to his knowledge". He becomes aware of a network of scamps, and he has learnt that in the performance of duties, what should he do?

Sen. Vieira: In fact, I was thinking that having regard to what we talked about corruption and perceptions of corruption and all of that, the Act should be encouraging whistle-blowing and people calling out those who are asking for bribes and this sort of thing.

Mr. Cadiz: I know, but remember that when you are dealing with the licensing office with the information that certain persons at different levels, et cetera, are going to have, I mean, you have to be very, very careful of where that information is going. You know, it is like a bank, you know, what do people in a banking situation then—and you are working in a bank, you are not in a position to go and disclose people's accounts and what have you, just like that. No, you are not, no.

Sen. Vieira: The FIU now trumps that, eh. So the bank now has the obligation of balancing confidentiality and probity and—

Mr. Cadiz: Well, then if you want then to say—

Sen. Nicholas: Not in a willy-nilly fashion. Not in a willy-nilly fashion.

Sen. Vieira: I think the antidote would be to have whistle-blowing provisions in this legislation that would allow for that balancing exercise. We are not trying to dis on the importance of confidentiality.

Sen. G. Singh: The problem is that we need an appropriate clause to capture that. So that, therefore—

Sen. Nicholas: It is something we will deliberate upon.

Sen. Small: I appreciate that AG, and I want to chime in, I want to support that, because earlier on I had a comment I wanted to make, but I reserved my comment because I had simply asked the question when I contributed, what is the process for someone saying that they have experienced an issue with a vehicles enforcement officer who asked them for a bribe to get a transaction done? What is the process? I think the proposal put forward by Sen. Vieira is in line with that

type of activity. You may move the organization, you may have new people, but some of the old practices may hang over.

Sen. Nicholas: Agreed.

Sen. Small: So I think there needs to be a process for someone to say, "Hey, I went to do a transaction and this officer tell me to pay him $X to make it easy for me". I think we need to have some way that people can report that.

Mr. Chairman: Clause 32 would also be looked into; would be deferred?

Sen. Nicholas: Yes, Mr. Chairman.

Mr. Chairman: Okay.

Assent indicated.

Clause 32 deferred.

Clause 33 ordered to stand part of the Bill.

Clause 34.

Question proposed: That clause 34 stand part of the Bill.

Sen. Prescott SC: If you could bear with me, I will have to read it again:

"The Commissioner of Police may—

(a) with the approval of the Minister to whom responsibility for the Police Service is assigned;"—the Minister of National Security—"and

(b) subject to—

(i) such conditions as the Minister directs…"

Now, because the Minister is defined in the definition section, I thought we should confirm in (b), if we meant the same Minister of National Security or do we mean the Minister with responsibility for—

Mr. Chairman: Transport.

Sen. Prescott SC:—with responsibility for transportation, Page 4? It is a minor matter. In (b)(i), do we mean the Minister to whom responsibility for transport is assigned or the Minister of National Security?

Mr. Chairman: National Security.

Sen. Nicholas: It is the Minister in clause 34(1)(a).

Sen. Prescott SC: So it is "that Ministe"?

Sen. Nicholas: Yeah.

Sen. Prescott SC: Thank you.

Mr. Chairman: So should we insert—

Mr. Cadiz: "That" and not "the".

Sen. Prescott SC: I am sorry, I am not through.

Mr. Chairman: Oh, sorry.

Sen. Prescott SC: Pardon me. When we go to the last three lines in (1), what it really says:

"The Commissioner of Police may—-

appoint by instrument in writing, any member of an organization or any person as a Traffic Warden, for the purpose of assisting the Police in connection with the control and regulation of road traffic and with the enforcement of the law…"

It seems to me that the traffic warden can only assist with the enforcement of the law, in the same way that any private citizen can. Is that what it is intended here or does he have some greater power? He can assist him to regulate traffic. Does it mean that if he witnesses a traffic violation, he may assist the policeman in enforcing the law, by dragging the man out of his car? I am only using that to be sufficiently extreme to get the point over. Does he have police powers really, if he takes it upon himself, sorry, police powers beyond what the ordinary citizen has, if he takes it upon himself to do something about a flagrant breach of the law? [*Interruption*] No, he does not have those powers. Will it assist us if we simply removed the words "and with the enforcement of the law"? He is already an obligation as a citizen to assist the police, if called upon, and we may not benefit by allowing him to think that he could enforce the law?

I may say further, if it is proposed that traffic wardens shall now have the power to enforce the law for breach of a traffic regulation, then we can put that in. In order to make the point a little more graphic, should we read subclause (3)? Clause 34(3) says:

"A driver who —	(a) fails to comply with the directions given by a Traffic Warden while on duty;"—commits an offence.

So does it become an arrestable offence? Can he restrain him? Can he demand

and get his driver's permit?

Mr. Cadiz: Traffic wardens cannot arrest.

[*Sen. Nicholas confers with his advisors*]

Sen. Prescott SC: I beg your pardon.

Mr. Cadiz: Traffic wardens cannot arrest. They can issue tickets.

Sen. Prescott SC: When I tell the traffic warden, "I really do not have any regard for you", and I drive off, as a certain commissioner once did, and drive up Henry Street. Can the traffic warden run up behind me, and when "ah reach Queen Street hold meh", and say you obstructed me in the line of my duty?

Mr. Chairman: It falls under citizen's arrest, otherwise he could—

Sen. Prescott SC: That is what I am acknowledging, yes. He can do no more than Elton Prescott can do. [*Laughter*]

Mr. Chairman: It has to be specified. What is his authority?

Sen. Prescott SC: Okay, well give him a ticket, but "I eh stopping, eh. Dat fella did not stop, he say allyuh mad or wat, I goin to ah meeting", and he went.

So my recommendation is that we delete the reference to enforcement of the law in clause 34(1), and we look again at whether we could make it clear that the commission of the offence in the presence of the warden does not give him the power to arrest or restrain you, unless we propose that it should.

Sen. Nicholas: You see, seeing that we are coming back, we will have a look at this.

Sen. Prescott SC: I would be grateful.

Sen. Vieira: The whole question of the status of the traffic warden, is the traffic warden an employee of the Licensing Authority, because he is appointed by the Commissioner of Police? So the whole status about warden, I think is—

Sen. Nicholas: You see, at the moment, the traffic wardens are governed by legislation similar to this.

Sen. Prescott SC: Is that right?

Sen. Nicholas: Yeah. This is the existing legislation, actually. So we will probably need to see if it needs to be tweaked.

Sen. Prescott SC: Do they have these powers today?

Sen. Nicholas: Yeah, yeah, as it stands now.

Sen. Prescott SC: I am glad you told me that. [*Laughter*]

Sen. Nicholas: So be very careful.

Mr. Cadiz: Stop! Stop!

Sen. Dr. Mahabir: But, Mr. Chair, I am just wondering whether since it is governed by other legislation, why do we need to put it in this legislation, because the Minister of Transport really has no jurisdiction over traffic wardens. Does he?—that is from the Commissioner of Police. So what is it doing here?

Assent indicated.

Clause 34 deferred.

Clauses 35 to 37 ordered to stand part of the Bill.

Mr. Chairman: Do we have something on clause 37?

Sen. Prescott SC: I have something on clause 38. So I was saying you—unless somebody has something on—

Mr. Chairman: This does not only apply to one Senator. It applies to all Senators. [*Laughter*]

Clause 38.

Question proposed: That clause 38 stand part of the Bill.

Sen. Prescott SC: Can we just look briefly at clause 38(2)? Which should probably read:

> "The Authority shall, not later than the deadline stipulated in each year, by the Minister to whom responsibility of finance is assigned…"

Or is it:

> "…the deadline stipulated in each year by the Minister…"

Sorry, is it:

> "…the deadline stipulated in each year by the Minister…"
>
> "The Authority shall, not later than the deadline stipulated in each year by the Minister…"

Is that right? Is that how it should be read:

> "…prepare and submit to the Minister the estimates of revenue…"

Should it be "and other", in line 3? [*Crosstalk*] Thank you, yes. Okay. So subsection (2) is all about the Minister of Finance and the Economy? So we should make that observation, it is that Minister, both in lines 3 and 4, but the subsequent uses of the words "the Minister", in lines 3 and 4, may well point—let us say "that Minister".

Mr. Chairman: It is looking cumbersome.

8.00 p.m.

Sen. Prescott SC: And insert the word "and" after the word "revenue" in line three, remove the ".". [*Crosstalk*]

Mr. Cadiz: "and financial" not "other".

Mr. Chairman: "and other financial expenditure".

Sen. Prescott SC: Yes, thank you.

Sen. Nicholas: The amendment therefore, Mr. Chairman, is to 38(2), and it reads:

> The Authority shall, not later than the deadline stipulated in each year by the Minister to whom responsibility of finance is assigned, prepare and submit to that Minister the estimates of revenue and other financial expenditures of the Authority for the next financial year in such…

Mr. Cadiz: No, not "other". It should read "…the estimates of revenue and financial expenditures of the Authority…"

Sen. Prescott SC: "…in such form as that Minister may direct."

Sen. Nicholas: "…in such form as that Minister may direct." Thank you.

Mr. Chairman: So clause 38(2) will read as follows:

> The Authority shall, not later than the deadline stipulated in each year by the Minister to whom responsibility of finance is assigned, prepare and submit to that Minister the estimates of revenue and financial expenditures of the Authority for the next financial year in such form as the Minister may direct.

Sen. Nicholas: "…as that Minister…"

Mr. Chairman: "…as that Minister may direct." Is that it?

Sen. Nicholas: That is it, Mr. Chairman. **Mr. Chairman:** Okay.

Question put and agreed to.

Clause 38, as amended, ordered to stand part of the Bill.

Sen. Prescott SC: Does anyone have knowledge that there are more than one corporation tax, value added tax—

Mr. Chairman: Could you allow me to put the question first on the amendment?

Sen. Prescott SC: Do forgive me.

Mr. Chairman: Thank you. [*Laughter*]

Clause 39.

Question proposed: That clause 39 stand part of the Bill.

Sen. Prescott SC: Thank you very much, Chair. I am enquiring whether it is appropriate to use the following terms: corporation taxes, value added taxes, motor vehicle taxes, as though there are more than one, a variety.

Sen. Nicholas: Tax would do.

Sen. Vieira: In similar vein, I thought it might have been easy to simply say:

The Authority shall be exempt from Stamp Duty and all other taxes, charges, levies and imports.

Sen. Prescott SC: On the contrary, I was more inclined to what we had. I thought you wanted specifically to identify those.

Sen. Vieira: You see, unless there are a couple taxes you have in mind that the Authority can pay.

Sen. Dr. Mahabir: But also, Mr. Chair, I do not know if "imports" represents a tax or is it that the AG wishes to have the word "impost" in there, not "imports". An "import" cannot be a tax. It has to be an impost.

Sen. Prescott SC: That is the best I hear for the night. [*Laughter*]

Sen. Nicholas: Import duties, please. [*Crosstalk*]

Sen. Vieira: All other taxes, charges and import duties. [*Crosstalk*]

Sen. Nicholas: "…Corporation Taxes, Customs Duties, Value Added Taxes, Motor Vehicle Taxes and all other taxes charges, levies and import duties." [*Crosstalk*]I

Mr. Chairman: Is there any other suggestion or amendment on clause 39?

Sen. Robinson-Regis: Mr. Chairman, just one slight thing. After "…and all other taxes", there should be a ","; "taxes, charges, levies and imports." [*Crosstalk*]

Mr. Chairman: You have accepted it?

Sen. S. Singh: Yes. [*Crosstalk*]

Mr. Chairman: Clause 39, as amended, and I would read:

> The Authority shall be exempt from Stamp Duty, Corporation Taxes, Custom Duties, Value Added Taxes, Motor Vehicle Taxes and all other taxes, charges, levies and import duties.

Sen. Nicholas: "...charges, levies and import duties."

Mr. Chairman: On "…levies and import duties…" That is it.

Question put and agreed to.

Clause 39, as amended, ordered to stand part of the Bill.

Clause 40.

Question proposed: That clause 40 stand part of the Bill.

Sen. Dr. Mahabir: Mr. Chairman, I needed to get some clarification from the hon. Minister and Attorney General on whether the accounts of the Authority will be subject to review and audit by the Auditor General of Trinidad and Tobago.

Mr. Chairman: That is what 116 of the Constitution is. It indicates that.

Question put and agreed to.

Clause 40 ordered to stand part of the Bill.

Clauses 41 ordered to stand part of the Bill.

Clause 42.

Question proposed: That clause 42 stand part of the Bill.

Sen. Robinson-Regis: Sorry, sorry, Sir. May I ask a question in relation to clause 42? Do these—okay, no. It is okay.

Mr. Chairman: Thank you.

Question put and agreed to.

Clause 42 ordered to stand part of the Bill.

Clauses 43 to 46 ordered to stand part of the Bill.

Clause 47.

Question proposed: That clause 47 stand part of the Bill.

Sen. Prescott SC: In relation to clause 47, I see the need to introduce the words "on a road or highway" in clauses 47(1) and (2), that is to say, that it should read as follows:

> Subject to sections 49 and 51, a person shall not drive a vehicle on a road or highway unless the person holds a valid driver's licence.

And the same should go for 47(2):

> A person shall not employ another person to drive a vehicle on a road or highway.

It seems to me that you are still permitted to do so on the farm. [*Crosstalk*]

Mr. Cadiz: What about a beach?

Sen. Prescott SC: Well, I think public beaches, you are not permitted to, yes. There is a law against that, but you may wish to include it here. [*Crosstalk*]

Mr. Cadiz: I am just saying we need to be careful.

Sen. Prescott SC: So, even car parks would be included in a place to which the public has access. So on a road or highway or in a place to which the public has access.

Mr. Chairman: Are we okay with clause 47?

Hon. Senators: No.

Mr. Chairman: Not as yet. Okay. I was just asking. Sen. Avinash, I have not heard you for the entire day. I almost forgot that you are here, you know. [*Crosstalk*]

Sen. Nicholas: The suggestion for 47(1) is:

> Subject to sections 49 and 51, a person shall not drive a vehicle on a road...

There is no need to put "on a highway" because "road" includes highway.

Sen. Prescott SC: Before you commit to that, look at clause 49(1).

Mr. Cadiz: Yes, it has road or highway. We need to be consistent.

Sen. G. Singh: You have to keep consistency.

Sen. Nicholas: We will delete "highway" in clause 49.

Sen. Prescott SC: Okay, well when we come to that.

Sen. Nicholas: From the definition:

"'road' means any highway, street, road or open space to which the public is granted access..."

Sen. Prescott SC: So, we will focus on 47 for the time being, because the Chairman has not allowed us to go to clause 49.

Sen. Nicholas: So, we will insert "on a road" after "vehicle" in 47(1) and 47(2).

Sen. Prescott SC: Through you, Chairman, the suggestion that we should include "or in a place to which the public has access".

Sen. Nicholas: That includes road as well in the definition.

Sen. Prescott SC: Really? The beach and the savannah and all those? I am happy to hear this.

Sen. Nicholas: The definition for road—

Sen. Prescott SC: In which Act?

Sen. Nicholas: Mr. Chairman, the definition for road means:

"'road' means any highway, street, road or open space to which the public is granted access and any bridge over which a road passes and includes a privately owned street, road or open space to which the public is granted access either generally or conditionally;"

Sen. Prescott SC: Thank you very much.

Mr. Chairman: So, clause 47 (1) all that is included is "on a road". Okay.

Sen. Nicholas: "on a road" in subsection (1) and "on a road" in subsection (2) after "vehicle".

Sen. Prescott SC: In line one.

Sen. Nicholas: In line one.

Mr. Chairman: So, hon. Senators, clause 47, as amended, now reads as follows:

"Subject to sections 49 and 51, a person shall not drive a vehicle on a road

unless the person holds a valid driver's licence or endorsement issued by the Authority under this Part for the particular type or class of vehicle being driven.

A person shall not employ another person to drive a vehicle on a road unless the person so employed is the holder of a valid driver's licence for the type or class of vehicle being driven."

And it goes down as follows." *Question put and agreed to.*

Clause 47, as amended, ordered to stand part of the Bill.

Clause 48 ordered to stand part of the Bill.

Clause 49.

Question proposed: That clause 49 stand part of the Bill.

Sen. Prescott SC: Clause 49 needs some broad understanding, so permit me to take my time on it. It says:

"Subject to any further conditions imposed by the Authority, a newly licensed driver shall only be permitted to drive or operate a motor vehicle on a road...in accordance with the following conditions:"

My first question is as to the definition. In 49(5) it says:

"'newly licensed driver' means a person who is issued with a class 5 driver's licence under section 48."

So, such a person is permitted to drive or operate a motor vehicle on a road in accordance with conditions set out in (a), (b), (c) and (d).

In 49(3) however, we see that the newly licensed driver—that is the person to whom a class 5 licence has been issued:

"A newly licensed driver may, after one year from the date of issue of his class 5 driver's licence, apply to the authority to have"—certain—"restrictions…lifted…"

Are we introducing a provisional certificate for drivers who are in Class 5, licensed drivers, provisional for a period of a year or is it a conditional certificate? That is to say, if it is provisional, it is good provided that something does not happen or is it conditional, you are only getting it on condition that you behave in a certain way and, therefore, the person referred to in clause 49(1) is the newly licensed driver subject to (3). Am I being as opaque as it looks? [*Crosstalk*]

8.15 p.m.

Sen. Nicholas: It is not a conditional licence, it is a licence with conditions. [*Laughter*]

Sen. Prescott SC: Could I ask you to repeat that? [*Laughter*] I am sorry, but there is this other term that may be applicable, it is a provisional.

Sen. Nicholas: It is not a provisional.

Sen. Prescott SC: It is not provisional?

Mr. Cadiz: No.

Sen. Prescott SC: There are conditions attached to it—

Mr. Cadiz: The conditions like in 49(1), I mean, it states the—

Sen. Prescott SC: And the conditions may be lifted if he satisfies (3), that is to say:

"he has—

successfully completed a learner driver course"—after one year—

"not been convicted of any alcohol related offence…and

complied with all the conditions or restrictions on his driver's licence."

Mr. Cadiz: Yes.

Sen. Prescott SC:—so what he has is a restricted driver's licence. May we call it that instead?

Mr. Cadiz: Well, comply with all the conditions or restrictions on his driving licence, so—

Sen. Prescott SC: Okay, fine, so conditional? So, a newly licensed driver means a person who is issued with a class 5 driver's licence with a conditional licence issued under clause 13?

Mr. Cadiz: Yes, with conditions.

Sen. Prescott SC: It is issued with a conditional—you do not like to call it a conditional licence?

Mr. Chairman: "Nah"—with certain conditions.

Sen. Nicholas: Not a conditional licence—

Sen. Prescott SC: Very well.

Sen. Nicholas:—licence with conditions.

Sen. Prescott SC: So, I am happy with that. May I go to the other point?

Mr. Chairman: Oh, you have another, go ahead.

Sen. Prescott SC: Oh, yes, Sir. [*Laughter*]

Mr. Chairman: I thought you had completed the entire thing.

Sen. Prescott SC: No. In clause 49(1)(d) there is this new thing called "a newly licensed driver certificate", what is that?

Mr. Cadiz: Well, under clause 49(1) we also talk about a newly licensed driver, and then under (c), the newly licensed driver—you can change the description.

Sen. Prescott SC: I would want to do that.

Mr. Cadiz: Yeah.

Sen. Nicholas: It should not be "a newly" it should be "the newly".

Mr. Cadiz: In fact, throughout the whole thing is "a newly licensed driver".

Sen. Prescott SC: But what is the thing? What does the thing—what does it look like? The thing called "newly licensed driver certificate"?

Mr. Chairman: Who have just been issued a new licence, or have just been issued a licence—

Mr. Cadiz: Well, we toyed with the idea, it could be a juvenile, it could be a novice, it could be any word to describe a—but then you might also have, again, an elderly person who, for the first time in their life, they have a licence, and I cannot call them a juvenile.

Sen. Prescott SC: "He win ah car in ah Soca Monarch contest."

Mr. Cadiz: "Soca Monarch."

Sen. Prescott SC: Yes.

Mr. Chairman: All drivers at one occasion does be the first when you receive—

Mr. Cadiz: I know, but I do not think a 70-year-old person will want—oh, I should not say—whatever age. An elderly person would want to be—

Sen. Prescott SC: He might be a "calypsonian" at 68 who win a "Soca Monarch" contest and get a car, so he say, "Yeah, I gonna drive".

Mr. Cadiz: As a "newly Soca Monarch". No, we can change the terminology there if you would like.

Sen. Prescott SC: Well, if we say there is such a thing as a conditional something—we have to go back to conditional.

Mr. Cadiz: We can term it a conditional licence, yeah.

Sen. Prescott SC: Give him a conditional licence which lasts for a year and is lifted, the condition is lifted if he satisfies (3).

Mr. Cadiz: If he satisfies all the criteria. Yes.

Sen. Prescott SC: Is there a strong reason for not wanting to call it a conditional licence?

Mr. Cadiz: You do not like the term "newly licensed driver"?

Sen. Prescott SC: No.

Mr. Chairman: You want to suggest that we defer it and look at it properly and then come back?

Sen. Nicholas: Mr. Chairman, that is a very good suggestion.

Mr. Chairman: Thank you. So is it that we are saying clause 49 is deferred?

Sen. Prescott SC: Well, in that case, may I just mention a couple of other things that need to be looked at during the deferral? May I? There are a couple of other things, Chair, which I would like to see looked at while we are deferring.

Mr. Chairman: Would you like to put it in writing, Senator.

Sen. Prescott SC: Not at this stage, Sir.

Mr. Chairman: Not now, but then you will have the opportunity of expressing your concerns in writing before we come back.

Sen. Prescott SC: May I decline the offer, Sir? [*Laughter*]

Mr. Chairman: I was only teasing "yuh".

Sen. Prescott SC: So the word in (e) there is reference to an "approved driver education course" which we had not heard about before in this legislation, will there be such things?

Sen. Nicholas: Sorry.

Sen. Prescott SC: Yes, pardon me, in 49(1)(e) there is reference to an

approved driver education course, which presumably will be covered under the functions of the Authority, but it sounds like a thing, a real thing, and one needs to know if the legislation should not say, that such courses will require the approval of the Licensing Authority. I may have missed it, so I am taking a risk, but would you look at that again? Is there such a thing as an approved—

Sen. Nicholas: We would look at that.

Sen. Prescott SC: Yes, please.

Mr. Chairman: One question here, one question that I would like to ask, like in (d), could one consider, as a person who has a class 5, to have a conditional licence?

Sen. Prescott SC: Yes.

Mr. Chairman: If you have class 5.

Sen. Nicholas: Yes, it is a conditional class 5—

Sen. Prescott SC: For a year.

Mr. Chairman: Okay. I just wanted clarification. Okay.

Sen. Prescott SC: And, finally, through you, Chairman, in the same say that consideration is given to what is an approved driver education course, a learner driver course needs to be addressed. [*Crosstalk*] I know I have your attention, Chairman.

Mr. Chairman: Yes, you do.

Sen. Prescott SC: So, in the same way that "an approved driver education course" should be addressed, "a learner driver course" in 49(3)(a) should be addressed.

Mr. Chairman: You have it, Mr. Minister?

Sen. Prescott SC: I doubt that they heard me. In 49(3)(a), the thing called the "learner driver course" should be addressed in the same way as the "approved driver education course" is being considered.

Sen. Nicholas: Indeed.

Sen. Prescott SC: Thank you.

Sen. Vieira: Chair, I know we are deferring clause 49, but my concern with this clause—I want to come back to clause 191 on the "Prohibition on teaching persons to drive a vehicle", because my understanding, was it clause 49 that

allows a parent or guardian to teach their child to drive; am I right?

Sen. Prescott SC: Clause 191?

Sen. Vieira: No. No. Clause 49 is the antidote to clause 191, clause 191 says, as a matter of strict law:

> "…a person shall not teach another person to drive or"—to—"operate a vehicle unless that person is…a Driving Instructor's..."

That is what clause 191 says, right. So, clause 49, I was thinking, was the clause that would allow a non-driving instructor to be able to teach a child or ward to drive.

Mr. Cadiz: No, clause 49 is after the fact, you know.

Sen. Nicholas: Clause 49, you have already learned to drive—

Sen. Vieira: But this is what I am saying, so clause 49—

Sen. Nicholas:—you have been issued a driver's permit—

Sen. Vieira: You are a newly licensed driver. So, am I to take it then that under this legislation a parent or guardian cannot teach a child to drive?

Mr. Cadiz: No. I think we said in the winding-up that it is not an issue for whether or not the parent, or any other person, could teach somebody how to drive, but when you going to the Motor Vehicles Authority to get your licence you would have to have a certified driving instructor that would have signed off saying that, "I have in fact taught this person how to drive". Now, that person might have learned to drive long before, again, as in your case, with a parent, but, still, the certification will still have to come.

Sen. Vieira: No, I understand that Minister, but if I read—my understanding of the law as this legislation will make it, and I read it to you.

"Subject to sections 52(7) and 193(2),"—

Sen. Cadiz: This is clause 191, right?

Sen. Vieira: Yeah.

> —"a person shall not teach another person to drive or operate a vehicle unless that person is registered by the Authority and issued with a Driving Instructor's Permit."

So if you do that and you do not fall within the exceptions, you are committing an offence.

Sen. Prescott SC: Maybe it means on a road.

Sen. Nicholas: If somebody has already been granted a permit, as in clause 49—

Sen. Vieira: This is what clause 49 is, but it means you have already been granted a permit. So what I am saying is, there is no provision in the law for a learner driver to be taught by a person who is not a driving instructor, and that cannot be right.

Mr. Chairman: So, why should a parent be allowed to teach their children to drive and there are licenced instructors that you are supposed to—[*Crosstalk*]—why should that be law and introduce provisions, please, that your parents, your friend, your brother or sister, should be authorized to allow one to drive when there is a designated place where you should learn to be certified to become a driver? So why do provisions have to be—

Sen. Vieira: Chair, we have been doing this for eons, ever since we have had cars on the roads in Trinidad, and I suspect that, if you could check the data, you have had very few accidents with parents actually teaching their children to drive. I would feel, as a parent, more comfortable with me teaching my child to drive than leaving entirely to the whims of a driving instructor—

Sen. Nicholas: I want to agree with you, you know, Senator.

Sen. Vieira: Okay.

Sen. Prescott SC: It is a bonding exercise. [*Laughter*]

Sen. Nicholas: I think it is an important point you make and it has to be revisited.

Sen. Vieira: And, also, when you look at "driving supervisor" in clause 49, "driving supervisor" is simply defined as:

> "an experienced driver who is the holder of a valid driver's licence for a period of at least five years;"

If you look at the *Wilkinson's Road Traffic Offences*, there is a whole chapter on supervision of learner drivers. Now, here, it is learner driver, not a driver with a permit already, and it is interesting to see their definition under the case law of a supervisor. The supervisor's duties were considered in *Rubie v Faulkner*, 1941, All England Reports:

> "…it is"—his duty—"when necessary, to do whatever can reasonably be expected to be done by a person supervising the acts of another to prevent that

other from acting unskilfully or carelessly or in a manner likely to cause danger to others, and to this extent to participate in the driving."

And there is a whole series of different scenarios and questions that I would commend when you go back to look at clause 49 to the whole question of driving supervisor, what is their function, and all of that, because I think what we have here is very pithy and not really going to what is germane. It is not just how long you have a driver's permit, it is the duty of the driving supervisor.

Mr. Cadiz: Sure. But the only thing with that is that if the driving supervisor is not a trained supervisor, it is an adult driver that we feel would bring some order to the newly licensed driver, and that is the purpose of it. So it could be a parent, or whoever, could be the supervisor.

Sen. Vieira: But in this case it is only somebody who already has been issued a permit—

Mr. Cadiz: Yes.

Sen. Vieira:—and what I am saying is that the Act basically says—it assumes that if you have been driving for five years you will be a competent driving supervisor, and I do not necessarily subscribe to that idea at all.

Mr. Cadiz: No. I think, especially where it speaks about the midnight to 5.00 in the morning, that—

Mr. Chairman: Senator, do we have to continue to deliberate on that after we have—

Mr. Cadiz: No.

Mr. Chairman:—decided it would be deferred. I had allowed the Senators to give their concerns, so whilst you—

Mr. Cadiz: I do apologize. Chairman, I do apologize.

Mr. Chairman:—but we seem to be taking it into a debate.

Clause 50.

Question proposed: That clause 50 now stand part of the Bill.

Mr. Chairman: Are there any concerns here?

Sen. Robinson-Regis: Mr. Chairman, could I ask one question?

Mr. Chairman: Please do.

Sen. Robinson-Regis: Thank you, Chair. Where it says at 50(9):

"Where a holder of a Hired Driver's Permit wishes to renew his permit he shall, thirty days prior to the…expiration…"

—is there any penalty or so if he does not do it within that 30-day period—if he does it afterwards, or is there any finding for after, if it is done after that period?

Sen. Prescott SC: No. I suppose they will simply tell him, "Boy, yuh too late".

Sen. Robinson-Regis: Yeah.

8.30p.m.

Sen. Nicholas: It was simply meant as a convenience to ensure that by the time of expiry he gets his permit, so there is no loss of income from loss of use.

Sen. Prescott SC: So the Motor Vehicles Enforcement Officer may say to him, "I am sorry, you are too late."

Sen. Nicholas: No.

Sen. Prescott SC: He may not?

Sen. Robinson-Regis: So he will still be able to get it even if he does not do it within that period? [*Crosstalk*]

Sen. Nicholas: This is more for convenience, Senators. It is more of a recommendation than a penalty.

Sen. Prescott SC: So the word "may" could be used instead of "shall"? He may if he chooses?

Sen. Nicholas: Yes; definitely.

Sen. Robinson-Regis: So it is going to be changed to "may"?

Sen. Nicholas: Yes, it shall.

Sen. Prescott SC: May I introduce one of my little quirks? There is a persistence throughout 50 on suggesting that people should apply "in the prescribed form", but in 52(5) they say "on the prescribed form", which is the thing that I prefer, the style that I prefer. Is this meant to make a difference? Do people really apply "in the form" or "on the prescribed form?"

Sen. Nicholas: They would normally apply on the form.

Sen. Prescott SC: In which case, can that be addressed in 50 throughout?

Sen. Nicholas: I imagine it can.

Sen. Prescott SC: I would be grateful if you took the step.

Sen. Nicholas: So that in all places, Mr. Chairman, where "in the form" is referred to, it will be "on the prescribed form". Clause 50(9) will now read:

"Where holder of a Hired Driver's Permit wishes to renew his permit, he may..."—as opposed to "he shall".

Sen. Robinson-Regis: May I just ask a question, please. With regard to that same (9), was it that you wanted to ensure that the persons who operate the hired vehicles do this within the specified time, because it refers specifically to the "Hired Driver's Permit"?

Sen. Nicholas: Yes. There is a penalty if they are expired.

Sen. Robinson-Regis: And you still want to use "may"?

Sen. Nicholas: It would be his fine to pay.

Sen. Robinson-Regis: It is very specific to the hired.

Mr. Chairman: That is it?

Sen. Nicholas: That is it, Mr. Chairman.

Question put and agreed to.

Clause 50, as amended, ordered to stand part of the Bill.

Mr. Cadiz: Mr. Chairman, in accordance with Standing Order 53(12), I beg to move that progress be reported to the Senate.

Mr. Chairman: Hon. Senators, there is need for the Senate to resume to consider a Procedural Motion.

Senate resumed.

The Minister of Transport (Hon. Stephen Cadiz): Mr. Vice-President, I wish to report that progress has been made, and I seek leave to resume proceedings on a later date.

Question put and agreed to.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. Vice-President, first, I want to thank Members for their endurance and stamina, and we will continue the business at hand on a date I will

soon announce.

Mr. Vice-President, it is expected that the report of the Joint Select Committee on the Insurance Bill, 2015 will be tabled for debate and adoption next Tuesday, after Private Members' Day. Copies of the report and the relevant notice will be circulated to Senators by Friday of this week to facilitate preparation for the debate.

In those circumstances, Mr. Vice-President, I beg to move that this Senate do now adjourn to Monday, May25, at 1.30p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.38p.m.