

*Leave of Absence**Friday, March 19, 1999***HOUSE OF REPRESENTATIVES***Friday, March 19, 1999*

The House met at 1.30 p.m.

**PRAYERS**[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I wish to advise that I have received communication from six Members of this honourable House who have asked to be excused from sittings of the House for varying periods. The Member for Oropouche is out of the country on official business and has asked to be excused from March 12—21, 1999; the Member for St. Joseph has likewise asked to be excused because he is out officially from March 19—26, 1999; the Member for Diego Martin West has asked to be excused from March 15—27, 1999; the Member for Arouca South has asked to be excused from today until April 02, 1999 and the Member for Port of Spain North/St. Ann's West has asked to be excused from today's sitting as indeed the Leader of the Opposition, Member for San Fernando East has asked to be excused from today's sitting.

**JOINT SELECT COMMITTEE  
(APPOINTMENT OF)**

**Mr. Speaker:** I wish to advise hon. Members that I have received communication from the Vice-President of the Senate, dated March 18, 1999, which reads as follows:

“Dear Mr. Speaker,

**Appointment of Joint Select Committee**

At a sitting held on Tuesday March 16, 1999, the Senate agreed to the following resolution:-

“BE IT RESOLVED that the following six members of the Senate be appointed to serve with an equal number from the House of Representatives on a Joint Select Committee of Parliament to consider and report on the Bills entitled ‘An Act respecting human reproductive technologies and commercial transactions relating to human reproduction’; and ‘An Act to make provision for the removal of human tissue for transplantation and blood for transfusion and for matters connected therewith’.

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The Resolution being agreed to, the Senate appointed the following members to serve on the Joint Select Committee:-

Brig. Joseph Theodore

Ms. Carol Cuffy-Dowlat

Mr. Andrew Gabriel

Mr. Danny Montano

Prof. John Spence

Prof. Julian Kenny

The Resolution is accordingly forwarded for the attention of the House of Representatives.

Yours sincerely

Philip Hamel-Smith  
Vice-President of the Senate"

#### PROCEDURAL MOTION

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, may I, with your leave, give notice that at a later stage in the proceedings, the appropriate Motion naming the Members to serve on that Committee would be put to the House.

*Question put and agreed to.*

#### EVIDENCE (AMDT.) BILL

Bill to amend the Evidence Act, Chap. 7:02, brought from the Senate [*The Minister of National Security*]; read the first time.

#### CARIBBEAN INVESTMENT FUND BILL

Bill to incorporate certain provisions of the Caribbean Investment Fund Agreement (the Fund Agreement) into the laws of Trinidad and Tobago brought from the Senate [*The Minister of Foreign Affairs*]; read the first time.

#### PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1990. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]

2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1991. [*Hon. R. L. Maharaj*]
3. The Elections and Boundaries Commission (Local Government) Order, 1999. [*The Parliamentary Secretary in the Ministry of Local Government (Mr. Razack Ali)*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Trinidad and Tobago Racing Authority for the year ended July 31, 1992. [*Hon. R. L. Maharaj*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Trinidad and Tobago Racing Authority for the year ended July 31, 1993. [*Hon. R. L. Maharaj*]
6. Financial Statements of First Citizens Bank Limited and its Subsidiaries for the year ended September 30, 1998. [*Hon. R. L. Maharaj*]

*Papers 1,2,4,5 and 6 to be referred to the Public Accounts Committee.*

**ORAL ANSWER TO QUESTION**

**Mahatma Ghandi Cultural Institute  
(Delay in Construction)**

**35. Mr. Martin Joseph** (*St. Ann's East*) asked the Minister of Culture and Gender Affairs:

- (a) Would the hon. Minister advise why there was a five-year delay in the start of construction of the Mahatma Ghandi Cultural Institute since the site was formally handed over as long ago as April 29, 1994?

**The Minister of Foreign Affairs (Hon. Ralph Maraj):** Mr. Speaker, the Minister of Foreign Affairs of Trinidad and Tobago handed over the land and delivered the deed of lease in connection with the Mahatma Ghandi Institute for Cultural Co-operation to the High Commissioner of the Republic of India at a ceremony that took place on April 29, 1994 at the proposed site for the said institute.

The lease for the parcel of land provided by the Government of Trinidad and Tobago to the Government of India to build the Institute for Cultural Co-operation contains the provision that construction should take place within two years of the signing of the lease. In a meeting with the officials of the Ministry of Foreign Affairs in January 1996, the then High Commissioner explained that it had not

*Oral Answer to Question*  
[HON. R. MARAJ]

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been possible for the necessary budgetary appropriations to be made which would permit initiation of the construction of the Institute.

In a subsequent diplomatic Note dated March 1996, the High Commission of India informed the Ministry of Foreign Affairs that:

“...it is presently in the process of selecting architects and shall finalise its choice of an architect in the spring of 1996. Thereafter, building plans would be prepared within six months and after taking necessary approval of the concerned local bodies and floating of tenders, it is proposed that construction of the building would be completed within two to three years”.

In a later diplomatic Note dated June 1996, the High Commission enquired about the availability of suitable premises for the establishment of a temporary Cultural Centre in an effort to accelerate co-operation between Trinidad and Tobago and India in the cultural sphere.

This administration provided such facilities, and the centre, as you know, has been established and is up and running and was formerly opened by the hon. Prime Minister.

The Government remains convinced of the commitment of the Government of India towards the establishment of this Institute, and we expect construction of the building to start in the not too distant future.

**Mr. M. Joseph:** It is not correct, then, to say that the PNM administration was in any way responsible for the delay in the implementation of this cultural centre.

**Hon. Ralph Maraj:** Is that a statement or a question? Well that is subject for debate, but as I said, it is true that under the last administration, the land for the Mahatma Gandhi Cultural Institute was handed over to the Government of India.

**1.40 p.m.**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, there was a statement from one of the Ministers, the hon. Minister of Education.

**Mr. Speaker:** Yes. Okay. Who is the Minister?

**Hon. R. L. Maharaj:** The Minister of Education.

**Mr. Speaker:** Hon. Members, we will go back to the item “Statements by Ministers”. I call on the Minister of Education.

**VIOLENCE AND INDISCIPLINE IN SCHOOLS**

**The Minister of Education (Dr. The Hon. Adesh Nanan):** Mr. Speaker, Government is very concerned and totally committed to the safety of our nation's children, our students and our teachers. I am sure that children, parents and all right-thinking teachers are equally concerned and committed. Our institutions of learning—our schools—must be made safe and secure.

Mr. Speaker, the genesis of the problem of indiscipline and violence preceded this Government taking office. This did not happen overnight! In 1989, following a national consultation on violence and indiscipline in schools, a report was produced by the National Alliance for Reconstruction Government.

Section 3, page 171 of that report highlighted the nature and extent of indiscipline in schools as follows:

“Inattention and disruptive behaviour in class

Thefts

Fights in schools; and among students of different schools

Use of various kinds of weapons

Attacks on students by students and non-students both in and out of school

Drug abuse

Sexual misconduct

Threats of attacks on teachers

Verbal sexual harassment of female teachers

Violent, physical attacks on teachers.”

The report goes on:

“Incidents of violence and indiscipline were not limited to any one type of school or to particular geographical areas. It was noted, however, that indiscipline serious enough to disrupt schools, or reach the extremes of violence, was evident only among a small minority of students even in the most troubled schools.”

That was in the 1989 report.

In 1992, under the watch of the then Prime Minister, Mr. Patrick Manning, the *Draft Strategic Plan 1992-1997* identified major difficulties. At page 3 of that plan, it is reported:

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“The environment in which education is to be administered has become a difficult and turbulent one:

- grave dissatisfaction and industrial action on the part of teachers
- deteriorating school plant
- increasing violence and indiscipline in schools
- an increasingly demanding and assertive population in and out of schools ready to resort to legal action or to violence or to demonstrations and protest in relation to an increasing range of issues
- vandalism from within and without and an increasing disrespect for school property
- increasing doubts about the relevance of much that passes for education
- aggressive trade union
- dissatisfaction with the products of the system
- increasing loss of authority, if not breakdown of authority in society, in the school system.”

When the PNM came into office in 1991, it had the benefit of the 1989 report on violence and indiscipline in schools. So the PNM had the 1989 report; it had the strategic plan to which I have referred. What did it do? Absolutely nothing. What happened is that the PNM totally ignored this problem and swept it under the carpet. It remained festering and explosive. So, today, we are reaping the whirlwind sowed by the PNM.

Since this Government came into office, we have been taking a holistic approach in our efforts to deal with the problem. With your leave, Mr. Speaker, I would list some of the steps we have taken.

1. We have provided security for 41 of the highest risk primary schools at a cost of \$10 million. [*Desk thumping*] And 41 other schools are programmed for later this year.
2. We have facilitated management training of principals, vice-principals and senior teachers at the University of the West Indies, St. Augustine.
3. We are in the process of preparing a new primary school curriculum with emphasis on values education.

In fact, we propose that there shall be an additional Curriculum Officer who will be responsible for moral and values education.

4. As part of the Continuous Assessment Programme requirement, we have caused to be set up diagnostic and prescriptive teams in each education district so as to facilitate proper screening of students.
5. We have established a Code of Conduct for teachers.
6. We will be constructing 19 new secondary schools to facilitate the removal of the shift system. [*Desk thumping*] Eight are to be constructed over the next two years to provide the places necessary for the removal of the Common Entrance Examination for the new millennium.
7. We are setting up a unit to ensure that everything is in place to remove the Common Entrance Examination.

Mr. Speaker, these are only some of the steps we have taken to improve the quality of education in our beautiful twin-island republic. But, we are constrained in some respects because Cabinet/Government cannot interface directly with the work of one of the most important institutions affecting the delivery of quality education, the Teaching Service Commission.

Section 125 of the Constitution of the Republic of Trinidad and Tobago states:

“Subject to the provisions of this Constitution, power to appoint persons to hold or act in public offices in the Teaching Service established under the Education Act, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Teaching Service Commission.”

There is no doubt that indiscipline in schools and teacher absenteeism are inextricably linked. On an average, 20 per cent of teachers are absent each day in our schools.

In the junior secondary schools, a class is usually abandoned when the teacher fails to show up, because there is no one free to carry on. How many parents and students know that it takes between two to four years for a teacher to be disciplined? Mr. Speaker, many times it takes even longer for a teacher to be confirmed.

The implication is clear that the indiscipline problem which involves students, teachers and parents in very important respects, is out of the management control of Cabinet. Our policy of zero tolerance to indiscipline and violence in our schools

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must mix mercy with justice, compassion with firmness. No responsible government can expel 12 year-olds from schools to be thrown out on the streets. Compassion demands that help be given.

On the other hand, it cannot be fair that approximately 95 per cent of disciplined students be subjected to a disruptive minority who make it almost impossible for teaching and learning to take place in many of our classrooms.

Government intends to move expeditiously to address this problem. We will introduce institutional reform patterned along the lines of the current Servol programme. We will continue to hold discussions with Servol because that approach was tried before and was very successful, but it was discarded by the PNM. We will be reviewing and reforming legislation which impacts on education.

The Ministry of the Attorney General is reviewing legislation aimed at imposing stiffer penalties for all forms of violence in schools including vandalism of school property.

Government proposes to amend section 44(1) of the Education Act so as to give principals greater flexibility in dealing with indiscipline and violence. That section provides as follows:

“The principal of any public school may suspend from attendance any pupil who for gross misconduct may be considered injurious or dangerous to other pupils or whose attendance at school is likely for any serious cause to have detrimental effect upon the other pupils, so, however, that no such suspension shall be for a period exceeding one week.”

As part of the revolution in education, we are establishing local school boards. Yesterday, we established local school boards for Arima Senior Comprehensive, Siparia Senior Comprehensive and Marabella Junior Secondary schools. [*Desk thumping*]

Mr. Speaker, each board includes members nominated by TUTTA, the National Parent Teachers Association, representatives of health, sport, community police, the Inter-Religious Organization and the corporate sector. This is another historic milestone in education as we journey toward the 21st Century.

Government recognizes the importance of our students as our vital human resource. We know that there is no single remedy for the problem of indiscipline and violence and so, we embrace all stakeholders in our nation's youth, including the Trinidad and Tobago Unified Teachers Association and the National Parent Teachers Association, in order to ensure a safe and secure environment in our



schools which will be most conducive to teaching and learning. The community police is also vital in our crusade.

As the education landscape undergoes transformation in our quest to meet the challenges of the new millennium, I take this opportunity to call upon all our citizens to join hands and hearts with us so that united, we can provide total quality education for a total quality nation. [*Desk thumping*]

**PATENTS (VALIDATION OF INTERNATIONAL APPLICATIONS  
FILED UNDER THE PATENT CO-OPERATION TREATY) BILL**

*Order for second reading read.*

**The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar):** Mr. Speaker, I beg to move,

That a Bill to validate the effect of certain international applications under the Patent Co-operation Treaty designating Trinidad and Tobago, be now read a second time.

Just this week, over the past few days, March 16—19, the Ministry of Legal Affairs jointly hosted with the World Intellectual Property Organization, a symposium for Latin America and the Caribbean countries on the WIPO Copyright Treaty, WIPO Performances of Monograms Treaty. This symposium has showed us how close we are in the world now, that is, a global village.

Mr. Blomquist who was the main presenter from WIPO and the senior person from the WIPO, talked about all of us living in villages and being in such close proximity to each other. He said with this information age and with the use of computers and so forth, we could very well see how easily we can describe the world we now live in, as a global village.

And he says in the village, normal village, we are houses apart, but in the global village of the world we are just one computer apart, so it is from computer to computer. And so it is we see that events that take place in one part of the world are instantly relayed within seconds all over the world so that we can all share the same kind of information almost simultaneously in a manner that we could never have imagined before.

**1.55 p.m.**

And so we are all aware that we are undergoing an information revolution. Information on almost any topic, any subject, is easily accessible via the Internet and as the public becomes more aware of the information, opportunities for information that exist literally at our fingertips on the computer, the thirst and

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desire for more knowledge becomes insatiable. Government has long recognized that information plays a crucial and vital role in our nation's future development. We recognize information is an integral part of the continued development of this nation in all aspects, whether it be cultural, whether it be economic, whether it be social, whether it be technological. This Bill, Mr. Speaker, is but one plank or one part of the investment being made by Government towards a well-informed, educated and empowered nation.

Access to information by our citizens is an important link, Mr. Speaker, and it is one of the credos outlined by the hon. Prime Minister when he spoke on Empowerment Through Education. With your leave I would like to quote from the Prime Minister's address to the nation on June 18, 1998, Mobilizing for the Millennium. The Prime Minister said:

“The only national resource that is stable in any country and the ultimate source of any nation's wealth, is its people. Only the best educated and the best trained people will give our nation, any nation, the edge that is necessary to earn any country a position of strength in today's fiercely competitive and global arenas. That is why...”

the Prime Minister said,

“I have adopted a credo that should be carved in stone. That credo is empowerment through education. Only by the means of empowerment through education will the people who are still imprisoned in the culture of dependency be released. Only by empowerment through education will such people have the opportunity to realize their undoubted potential.”

And as you know, Mr. Speaker, Government is committed to this credo as enunciated by the hon. Prime Minister.

In the very short time that we have been on this side as a Government, we have played, in my respectful view, a very proactive and progressive role in ensuring that our country has been able to absorb advanced technologies as well as stimulate domestic innovative activity that not only contributes towards the development of our twin island Republic but has helped to place us firmly on the world map. However, we have long recognized that in order to effectively exploit and deploy technological innovations we must have the environment in which these innovations can emerge.

This honourable House, Mr. Speaker, may recall that in 1996, 1997 a package of bills was passed and as that package, we used a broad term, it is called the Intellectual Property package of legislation and it included amongst others the

Industrial Designs Act, the Protection Against Unfair Competition Act, the Layout Designs of Integrated Circuits Act, the Patents Act, and there was another one on the Protection of Plant Varieties. In addition we had brought the Copyright law to the Parliament.

So a whole package of legislation you may recall, Mr. Speaker, went through this honourable Chamber successfully. Those pieces of legislation have helped to put in place a legal and administrative framework in this country for the protection of all kinds of inventions or creations in the scientific field, in the technological field, in the industrial field, in the agricultural field and of course in the cultural in terms of the entertainment industry.

The Bill that is the subject of debate today is a very short Bill, Mr. Speaker. It contains only three clauses but, in my respectful view, it provides for us a matter of great significance because it goes hand in hand with the package of legislation which was proclaimed on December 1, 1997. At that same time we proclaimed the Patents Act, and that 1997 Act replaced the Patents and Designs Act, Act 10 of 1900. So in 1997 we were able to update legislation from 1900 to bring Trinidad and Tobago into the modern world. And so, to say that that patent law was archaic, Mr. Speaker, was to put it very mildly, given the kind of rapid technological change we have been witnessing in the past 30 years much less for the other 90 years that we have seen.

So we had a situation, at the time when the Patents Act was passed, where laws from the time of Queen Victoria were used attempting to administer to our needs in Trinidad and Tobago in the very dynamic area of intellectual property and more specifically with respect to patent law. To understand how important it is for a country to have a proper patent system, Mr. Speaker, it is fitting that we talk a little about patents themselves and what a patent is. This definition is taken from section 2 of the Patents Act.

The patent is the title granted to protect an invention. It is an exclusive right that is granted by a nation, by a country, to the inventor. The theory behind the patent system is as follows. The state considers it in the public interest that technologies of all types should be developed and improved, and also, at the same time, that it is in the public interest that the more significant of these advances should be fully disclosed and brought into the public domain to prevent resources from being wasted through duplication of efforts.

The legislation, therefore, is designed to accomplish these objectives by granting to the inventor, the person responsible for the invention, the opportunity to profit from the application of his creativity and intellect by giving him a

monopoly right. But that is only given for a specified number of years because thereafter it is brought into the public domain so that others can use it and build upon it and, therefore, at that later point there is full disclosure of the invention, of the creativity.

Mr. Speaker, there are two very interesting patents, just to give an example of what we do with the patents at the Intellectual Property Office, the things that come to us. Of course most of those patent applications with our office will still be under confidential cover because they will be kept secret for some time, therefore they cannot be disclosed or brought into the public domain at this time. But these patent applications relate to our industrial sector, and therefore these can only be of tremendous benefit to the economy of Trinidad and Tobago.

In April 1997 a patent was granted to MARS Incorporated. The application for the patent protection was made under the Patent Co-operation Treaty, which is the subject of debate today, in terms of validating applications made under the Patent Co-operation Treaty. That patent was called antineoplastic cocoa extracts and methods for making and using the same. In simple terms, Mr. Speaker, the object of that invention was to provide a method for producing cocoa extracts that may contain a substance that is anti-carcinogenic and so provide a method for treating tumors or cancer.

Of course, if this patent is registered, thereafter given the protection and developed, this could assist our own cocoa industry because it may be that it is our own cocoa that can be used in the cocoa extraction. So I am giving this example of the kinds of things. So we are saying look in the medical field, the patent could be in the medical field, the technological information there. At the same time it could assist, if it is given that protection, in other areas, in this case in our agricultural industry.

There is another example that may be of interest. This one was granted also in 1997 for something known as modafinil having defined particle size. Modafinil has been described as presenting a neuropsychopharmacological spectrum characterized by the presence of excitation with hyperactivity and hypermotility. I know these words are all very highly technical words in the medical field but that invention has been successful in the treatment of something known as narcolepsy. Narcolepsy is a chronic disorder that is characterized by intermittent sleep attacks, persistent excessive daytime sleepiness and such.

So when we are looking at patents and giving protection, we are talking about a whole range of inventions that could stem, as I said before, agricultural, could be medical, could be technological. In terms of designs it could be there, in terms of

music it could be there. Many people, when we talk about intellectual property in Trinidad and Tobago, tend to look only at those aspects that deal with the music, the copyright area, intellectual property, but there is a whole range of very lucrative business in terms of intellectual property protection which deals, as I said, with technological advancements and, therefore, have tremendous implications for the economy, any economy.

Mr. Speaker, the advantages, then, of legislation of this type is that, first of all for those of us who have an interest in this area, it is a very growing, very dynamic area in the law and advantages to a country such as ours are tremendous. It means an encouraging of creative activity, industrialization, investment and honest trade. It creates an environment which would encourage people to channel our abundant creative energies into areas that are not only productive but also profitable in ways that will redound to the benefit of the nation as a whole and also help and thus enhance the quality of life of our people.

It provides strong protection for the creativity of our people in all areas of human endeavour. It makes a contribution to the national Treasury and thus to the economic development of the nation. It improves our understanding of the technologies being created and used by other nations as well as, therefore, improving our access to new technology which is making a growing contribution in the lives of people internationally. Additionally, legislation of this type improves the costs of accessing technology thus making more efficient use of domestic savings for investment. It deepens trade relations in the global marketplace.

It encourages greater research and development in investment in areas that can be profitably commercialized, such as in the manufacturing sector. It encourages our economic growth through the effective use of new technology as well as the effective utilization of existing technology. This is particularly advantageous, Mr. Speaker, in a country such as ours where we are heavily dependent on science-based industries in oil, natural gas and other fields and, of course, Mr. Speaker, legislation such as this would place Trinidad and Tobago in a very favourable position to meet our obligations and our obligations internationally where we have signed treaties with other nations.

Mr. Speaker, the 1996 Patents Act secures specifically intellectual property rights in some of the following ways. It sets up for the first time in Trinidad and Tobago the Intellectual Property Office as a structure and as an entity responsible solely for the administration of laws relating to intellectual property and for rendering patent information services to the public. That Patents Act also conferred on the individual, property rights with respect to his or her intellectual

property. The 1996 Patents Act set up a framework for civil judicial procedures, so that individuals may be able to seek redress against an infringement by way of civil actions in the High Court.

International co-operation, Mr. Speaker, is essential for the operation and effective functioning of a patents system. This has long been recognized, so that we saw since 1883 an international convention, a Paris Convention, for the protection of industrial property came into being. We have become a member of that Paris Convention, and this international co-operation has progressed with the continued harmonization of the world's patent systems and has led to the Patent Co-operation Treaty, again a treaty which is part of the subject of debate today.

Mr. Speaker, prior to the coming into effect of the Patent Co-operation Treaty, traditional systems required an individual who had an invention, who had created something, to file individual, single applications in every country in which the individual wanted to have protection for his or her invention, for his or her creativity.

### **2.10 p.m.**

Simply put, Mr. Speaker, under the older system when an inventor filed a patent application in his own country, that is a party to the Paris Convention, he had 12 months from the date of the first application to apply to other member states. Each country would require the patent application to be submitted in his own language, the documents to be prepared according to his own specifications and then submitted for examination. This would all have to be done within the 12 month period, under considerable expense to an applicant, and all without knowing whether under the first application made, a patent would be obtained.

So, what would happen if there was an inventor here in Trinidad and Tobago—if I invented something, any inventor in Trinidad including me, we could invent—who had this great invention that he wanted to get protection for, what happened previous to the international treaties that were signed, is that, he filed to Trinidad and Tobago under the laws existing in Trinidad and Tobago. But if he wanted protection in Barbados, he will have to file another in Barbados. Maybe no problem, because we are both of the common law jurisdictions, so the laws are similar, the application itself may be very similar in format, but still the expense of doing that.

However, if he wanted protection in the United States, he will also have to file in the United States according to the format of their law prescribed. If he wanted protection in Europe, and in each nation, again this is what he will have to do

So you can see that it is going to be exceedingly impossible for an inventor, if the inventor had to go through that kind of process; and what is even more difficult would be, that having filed in your home country, you had 12 months within which to file it in any other country. So, you had that time constraint as well.

I am saying again that an inventor would have been placed under tremendous difficulty to obtain protection outside of his own country. The Patent Co-operation Treaty, the PCT. Mr. Speaker, is a very unique system, in that, it allows now a greater number of applications for patent protection in a number of countries, using a single application procedure.

The Patent Co-operation Treaty was concluded in 1970, it was amended in 1979, modified in 1984. And the main purpose of that treaty was to further international co-operation in the field of patents. It allows therefore, for the international and timely recognition of patents by a far simpler procedure.

This new procedure allows an inventor to apply by way of what is called an international application in his, or her own country, or in the country where he or she is resident. So, one would apply in that country for registration of the patent, not only in the home country, or the country of residence, but in any other country, designated by the applicant at the same time, provided that that country was also a signatory to the Patent Corporation Treaty.

In other words, once the nation states are signatories to the Patent Co-operation Treaty you can file a single application in your home country or country of residence, and if you do it under the format for international applications, it could also be designated in other nation states. As an alternative to doing that under the Patent Co-operation Treaty, an applicant—as an alternative to filing in the national state—you could also file it with the international bureau of the WIPO or at one of several major regional patent offices, but an applicant could still designate any other contracting state or states at the same time.

Mr. Speaker, at this present time, the number of contracting states to the Patent Co-operation Treaty, are about 100. So we are saying, by filing a single application you can designate one to one hundred countries where you can seek to have your invention given protection.

The effect of this new international procedure, Mr. Speaker, and patent applications worldwide, was to make the procedure for applying, for an invention to be granted a patent much less a matter of chance. For one thing, such an international application immediately results in a search by one of the regional

offices which culminates in an international search report being prepared on the application based on the published documentation throughout the world, that might be relevant to the granting of the patent for the invention.

So that right away upon filing such an international application in your home country, or in your country of residence you would be able to get an international search report to find out what is happening elsewhere in the world. Now, remember when you file your application, you do not yet have a patent. A search has to be conducted to see if it is anywhere else, if it has been done before, if you copied somebody else's work. So that, you need that international search in order to determine whether you will eventually be given the patent.

And so Mr. Speaker, that international search that trawl for information and similar interventions will be likely to result in withdrawal of an application if it became evident that there was a similar invention that had already been patented in some other jurisdiction. Thus the individual inventor or entrepreneur, would be spared the troubling expense of a very fruitless, time-consuming and, of course, expensive application.

In addition, once the international search report gave the all-clear the international bureau, or any national office where the original application was made, would immediately communicate to any country that had been designated by the applicant in the original application, the results of the search. So, you file your application, you are home in your country, you have an invention, you file your application here, you designate other states; instantly, an international search is done, and that search report is forwarded back to your home country. Thus, there is also the advantage for national offices especially in the developing world and in countries such as ours, since our offices would have less research work to do in order to establish whether or not an invention fulfil the criteria set out in section 8 of the Patent Act, and that the criteria of course are, that the invention must be new, that it must involve a new inventive step and that it must be capable of industrial application

The Patent Co-operation Treaty, Mr. Speaker, I have said is very new. It allows therefore an applicant to seek patent protection in any one of the 100 states of the Patent Co-operation Treaty through the filing of a single international application.

Further, a nation state such as Trinidad and Tobago where several of our industries rely on improvements in technology to remain competitive by making the patent application process faster and easier, the Patent Co-operation Treaty contributes to the improvement in the foreign investment climate.



Mr. Speaker, to give an idea of the impact of this treaty, we had obtained some figures in relation to the Patent Co-operation Treaty from the WIPO, and this is an information note on the Patent Co-operation Treaty 1990 issued by the WIPO, February 5, 1999. In 1998 Mr. Speaker, the International Bureau of WIPO received 67,007 international applications filed worldwide. This was an increase of 23.1 per cent over the previous year. If the Patent Co-operation Treaty did not exist, and we did not become signatories to this treaty, these applications worldwide would have been the equivalent of 4,806,997 national applications for patent protection in the member states.

As of February 1, 1999—as I said before, there are 100 states as parties to the treaty. So, there are 67,007 international applications filed worldwide.

Mr. Speaker, Trinidad and Tobago became a signatory to the Patent Co-operation Treaty on March, 10, 1994. From that day, it was possible then, for countries outside Trinidad and Tobago to designate Trinidad and Tobago in their international applications. However, in 1994, the domestic law in Trinidad and Tobago had not yet taken on board the provisions of the international treaty, the Patent Co-operation Treaty. So we signed the treaty but we had not yet put into the domestic law to be able to implement what is happening at the international level.

When the Patent Act 1996 was proclaimed and became law on December 1, 1997 Mr. Speaker, the local law gave full effect to the Patent Co-operation Treaty. But that, as I said, came after we signed the treaty. So, there was a gap; and therefore applications made between 1994 to 1997 would, legally, not be valid; and the purpose of this Bill, Mr. Speaker, is to validate those.

In addition from 1997 when the Act was proclaimed, to the present date all Patent Co-operation Treaty international applications would have no validity in law. So the effect, Mr. Speaker, of this delay by Trinidad and Tobago was that international applications filed after Trinidad and Tobago signed the treaty in 1994, but, before the coming into effect of the Patents Act, those applications which were designated Trinidad and Tobago under the international applications were possibly not effective under Article 11(3) of the Patent Co-operation Treaty. Article 11(3) states that international applications fulfilling the requirements under the treaty and being accorded an international filing date have the effect of a regular national application in each designated state as of the international filing date, which date shall be considered the actual filing date in each designated state.

So those outside Trinidad and Tobago, who would have filed an international application after 1994, would have been entitled to say, I want my application to go also to Trinidad and Tobago, because it is a member of this treaty.

**2.20 p.m.**

However, even though that was done, there is the view that those applications would have no validity within Trinidad and Tobago because we had not placed the provisions within the domestic law. The number of patent applications that were possibly affected are as follows—and these are foreign applications designating Trinidad and Tobago for their applications as an international application. In 1994, which was the year we signed the treaty, there were 7,000 applications under the Patent Co-operation Treaty; 1995, 15,000 applications; in 1996, there were 20,000 of those applications; and in 1997 there were 25,000 applications. So there is a clear increase each year in the number of Patent Co-operation Treaty applications which had been coming to Trinidad and Tobago.

Mr. Speaker, at December 1st, 1997, when the new Patent law of Trinidad and Tobago was proclaimed, there were 67,000 foreign applications which had designated Trinidad and Tobago as being one of the countries where they wanted to seek patent protection for their inventions. Of these applications, 124 of them have already decided to affect entry into our national system. Therefore, in addition to filing their Patent Co-operation Treaty international applications, 124 of them filed locally within our system. It should be noted that the 25,000 applications made in 1997 under the Patent Co-operation Treaty, have until the year 2,000 to decide whether or not to seek protection within Trinidad and Tobago. That is to say, they would have three years within which to seek protection locally.

In order to comply with our international obligations under the Patent Co-operation Treaty, which was signed by the Government of Trinidad and Tobago in 1994, if we were to fulfil those obligations, and out of an abundance of caution and for the avoidance of doubt in anyone's mind, it was decided that we should bring this Bill to make the position clear, and to validate those applications which were filed between 1994 and proclamation of the Patents Act in 1997.

In the Bill itself, paragraph four of the Explanatory Note states:

"This Bill thus seeks to put beyond doubt that international applications designating Trinidad and Tobago, filed between the entry into force of the Treaty for Trinidad and Tobago and the day on which the Patents Act, 1996, entered into force, that is, filed between the 10th day of March, 1994, and the 1st day of December, 1997, have effect in Trinidad and Tobago as provided for in Article 11(3) of the Treaty."

As I said, there are only three clauses in the Bill. Clause 1 is a simple clause which just deals with the long title of the Bill:

"This Act may be cited as the Patents (Validation of International Applications filed under the Patent Co-operation Treaty) (No. 2) Act, 1998."

Clause 2 provides:

"Notwithstanding any rule of law to the contrary any international application under the Patent Co-operation Treaty designating Trinidad and Tobago filed between the 10th day of March, 1994 and the 1st day of December, 1997 fulfilling the requirements under the said Treaty and being accorded an international filing date, shall be treated as a patent application under the Patents Act, 1996, as of the international filing date, which date shall be considered to be the actual filing date in Trinidad and Tobago."

The only other clause in this very short Bill is clause 3 which provides:

"Notwithstanding any rule of law to the contrary any international applications referred to in section 2 shall be deemed to have been lawfully and validly filed and no legal proceedings or other action whether pending or not shall be entertained in respect of the validity of the filing of such applications for the reason that any such application has been filed before the day on which the Patents Act, 1996 entered into force."

Mr. Speaker, this Bill is, in essence, one that dots the "i"s and crosses the "t"s to ensure that we comply with the obligations of that treaty which was first signed in 1994. With those words—[*Interruption*]

**Mr. Valley:** Mr. Speaker, before the Member sits, I need one little clarification. There seems to be no protection here for the individual of Trinidad and Tobago who would have filed.

**Hon. K. Persad-Bissessar:** The question is fair but it does not apply at all, because those countries would have had their law in place. This situation only arises because the domestic law did not put the Treaty obligation into place, but since 1994, persons in Trinidad and Tobago would have been able to file their single international application in any other of the contracting 100 states, so they would have been given that protection outside.

**Mr. Valley:** But is it not true that they could use the argument that since the law was not passed until 1997, therefore, they do not have valid protection by filing?

**Hon. K. Persad-Bissessar:** Who would use that argument?

**Mr. Valley:** For example, if somebody was to copy a patent in the United States, and the Trinidadian believed this was international protection, advertisers could claim that they cannot rely on that because the law was not passed until 1997.

**Hon. K. Persad-Bissessar:** Again, the concern does not apply, because in the first place this is a validating statute. We spent a lot of time last week talking about a validating statute, that is to say, to correct any omission or error. In this case it was an omission: the law had not been put in place. If I had an invention in Trinidad and Tobago in 1994 after we signed the Treaty, I would have filed my application here, and that application would then have an international implication outside of Trinidad and Tobago.

If, however, I had copied someone else's, which I think is what you are asking—

**Mr. Valley:** If someone in the United States wanted to copy an application, and the Trinidadian attempted to rely on an international filing to prove it, a defence could very well be, from that person, that since the law was not passed until 1997 you cannot rely on that protection.

**Hon. K. Persad-Bissessar:** This is exactly what this validating statute is for because it has taken us right back to 1994. I am not sure if that is your question, but that is what the validating statute is for. In fact, Trinidadians had the protection since 1994. This is to correct the omission for foreign applications filed in Trinidad and Tobago, because of that delay in the passing of the domestic legislation.

**Mr. Valley:** Mr. Speaker, I am saying that if for the avoidance of doubt, you are putting a law in place to protect the foreigner, ought we not also to protect the Trinidadian who would have had an invention, and say clearly in the Bill—In other words, should there not be a clause 4?

**Hon. K. Persad-Bissessar:** Can I please assure the Member that, that Trinidadian would have already been protected. This is to correct those that have come into Trinidad and Tobago. So that when we signed in 1994, the Trinidadian would have already had that protection. Because this is dealing with the foreign applications coming into Trinidad and Tobago, it does not mean that Trinidadians would be left out. Trinidadians have been taken into account and on board with respect to the legislation, especially that package that was proclaimed in 1997.

If I may, I would like to quite honestly say—I have done it before and I have no difficulty in saying it again—this package of intellectual property legislation that would be placed in Trinidad and Tobago is a model for other areas, it is the most modern in the world. This work did not begin with me and will not end with me, it started with the previous administration. When they signed the Patent Co-operation Treaty in 1994 and the Memorandum of understanding with the United States, which forced Trinidad and Tobago instead of having until the year 2,000 to

comply with the international obligations, it forced us to have it done two years prior to the year 2,000. The normal would have been the Trade Related Intellectual Rights Agreement they had signed which said that Trinidad and Tobago must comply and do all these pieces of legislation by the year 2,000. Instead, there was a Memorandum of Understanding signed by the previous government with the United States which said, "Do it before then."

We came in and we did it. The groundwork was laid in terms of the international obligations that had been created, and it was this Government that went ahead to put those things into the domestic law. It was not an easy task, I will tell you; the areas are exceedingly technical. We have sought in every way we could to give the protection to Trinidadians and Tobagonians. In every piece of legislation we have put in place, I have been at pains—in its entirety—to ensure that the people of Trinidad and Tobago gain as much benefit as they could from this.

For example, when we brought the piece of legislation dealing with the protection of plants, there were two options we could have chosen. There was an option that would have allowed us to accede to a 1971 treaty or a later treaty, and we really worked very hard, because there was a deadline date which, if it had passed, we could not go for the earlier treaty, the 1971 treaty, and become a member of that, and we would have gone for the later one. But if we went for the later one, we would have denied what is known as "breeders rights" to farmers in this country. That is to say, for them to take their seeds and use those for propagation, and keep going the normal way in which we do farming in this country. We were able to put in specific provisions in ways that would allow for our own peculiarities and our level of development.

Of course, nothing is perfect, and as the law develops we will see how we need to refine and change it. I do want to give the assurance through this House to the members of the national community, that at every stage in the drafting of the package of legislation, we have sought to give as much protection as we can to the nationals and residents of Trinidad and Tobago.

The Copyright Act, for example, which I spoke about in this House before—and I would always speak about it—I remember when we were drafting that piece of law, all the lawyers and technocrats who were working with us here were adamant, and against us drafting specifically into the legislation a protection for works of mas'. I had a battle and a fight. They were saying that had never been done anywhere else. Well, I am saying to you, maybe they have no works of mas' anywhere else. This is so peculiarly ours here in Trinidad, how can we have

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copyright protection for everything, but not for mas'. I remember that we went over it, and Todd Bulick and Peter Minshall gave us different drafts of what we could use and we worked on it and reworked it, until eventually we were able to find a way to frame in our national law a characteristic for protection that is totally ours. It is nowhere else in the world.

There were some who said that we were slavishly following what was happening internationally. If we were doing that we would not have looked for those types of protection but would have just gone with whatever they provided us with. I am saying again, that we are always on the alert to ensure that what we have here is given the protection. We may not always succeed, but the point is, the commitment is there. In some regards we succeed, and where we see that we have not been able to do that fully, we will keep going back to refine and change.

With those words, this is definitely not a contentious piece of work and, therefore, I expect full support from my friends on the other side, and my colleagues in this House because the obligation was created by the previous Government when it signed the 1994 treaty. We are, as I said, dotting the "i"s and crossing the "t"s. I look forward to the comments and suggestions of Members of this honourable House and Mr. Speaker, I thank you and I beg to move.

*Question proposed.*

**Mr. Fitzgerald Hinds** (*Laventille East/Morvant*): Thank you very kindly, Mr. Speaker. I noted that the Member for Siparia, the Minister of Legal Affairs was rather gracious in her observation that the work started earlier and certainly would not end with her. I feel duty bound to be equally gracious from this side, to indicate to the hon. Member that we are proud of the work she has done. I think she has done a wonderful job. [*Desk thumping*]

Particularly, I think that her grasp of the material today is commendable, and we wish to applaud her for that. [*Interruption*] There is no "but". However, this is an example, if I might say so, of a very good horse in the wrong stable—if I may use the metaphor.

**2.35 p.m.**

Mr. Speaker, I am privileged to make a short contribution to this debate, on a Bill to validate the effect of certain international applications under the Patent Co-operation Treaty designating Trinidad and Tobago. It was interesting to hear the Member, as she attempted to answer some of the questions raised by the Member for Diego Martin Central. She outlined the number of applications under this treaty, the Patent Co-operation Treaty, that we saw over the last few years. It

began with 7,000 a few years ago, and she demonstrated, with figures, a steadily increasing amount of applications. I wondered as I heard her, how many come out of Trinidad and Tobago.

Mr. Speaker, observers of international law, and there are many in Trinidad and Tobago, hold the view, with some measure of justification, that in these arrangements countries like ours, so-called smaller island-states, lesser developed economies and countries, are actually jumping to the beat of an international drum, and an international drum that comes out of, particularly, Europe, the United States, and other such states. There is a measure of justification for that observation, Mr. Speaker, but that justification is supported by the fact that in many cases the smaller-island states, the lesser developed countries, as indeed Trinidad and Tobago is, in the context of this international arrangement. When we, as a matter of practicality, do not—and it may be argued that we cannot—yield inventions, advance technology in the various aspects of human activity, and yet, we participate so enthusiastically in these arrangements, that kind of comment bears some justification.

Simply put, Mr. Speaker, if, as is correct, the Minister observed that we had 7,000 applications a few years ago, and it increased to as many as 11,000 and 12,000—I remember her figures—again, I must ask because I do not have the records at my disposal, how many have come out of Trinidad and Tobago? How many have we registered internationally and under the old system in other countries abroad? It is an important question, because entering into these international arrangements, and doing what was done today, bringing the international arrangements into the municipal or the domestic law, it is all good on paper. It causes us to receive a pat on the back from our colleagues in the developed world, but in practice it means that we have facilitated their developments, their advance in technology and precious little coming to us.

The question that must be asked is, to what extent is Trinidad and Tobago benefiting, or is likely to benefit from these arrangements? This is where, without being partisan or political, the Government of the country has a responsibility to encourage entrepreneurs and scientists locally and, perhaps, even regionally—since we are part of another international arrangement, CARICOM—to do better and to improve our efforts in respect of advancing technology for the benefit of ourselves and, indeed, the world. Government has that responsibility.

It is well known in many parts of the world that tax concessions and other concessions are given to firms which can demonstrate that they would expend some of their earnings on research and development. This Government is well

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advised—if as it now boasts, it is dotting the “i”s and crossing the “  
of making this arrangement applicable domestically—to do whatever it can to  
encourage and stimulate inventions and the advancement of technology in Trinidad  
and Tobago. Whether it could, is another question. I rather doubt that it could,  
given the state of affairs in Trinidad and Tobago today.

Mr. Speaker, I agree entirely with the comments made by the Member for  
Siparia in respect of the global village that this world now is, and the part that  
information systems and information technology would play in all of this. We, in  
Trinidad and Tobago have to understand that in respect of Government efforts and  
the effort of the private sector, we have to find ourselves on the cutting edge of the  
developments in terms of information technology. It is a global village, and small  
as we may be, we cannot escape the effects of that.

This brings me to a very sore question. I was speaking only yesterday to a  
young expert in the field of information technology and he pointed out to me as I  
enquired of him: “What sort of impact would the threat of Y2K pose to Trinidad  
and Tobago?” We both read of all the threats that it would pose to other  
countries, and I was wondering aloud with him, how it would affect Trinidad and  
Tobago and, more importantly, what we in Trinidad and Tobago are doing to deal  
with the threats of the so-called Y2K issue. I am told that the Government—and I  
cannot verify it—put a committee in place led by an officer of the Scotia Bank, to  
have a serious look at the problem. I do not know how long ago that was done,  
but I rather suspect it was a matter of months. At any rate, even if it was five  
months ago, we are off to a very late start, because based on my understanding of  
the threat of that problem, the task of resolving it could be very grave indeed. But  
worse still, Mr. Speaker, the person who has been put in charge of that committee,  
as I am told—I cannot verify it because I did not see the article myself—he is on  
record as saying he is not satisfied with the efforts of our Government. I am not  
entirely proud, so sometimes it is difficult to say “we” or “our”, but I am a  
Trinidadian; I am a citizen and I am obliged to say it, “our Government”, only for  
that limited reason—not really doing as much as it ought to. I can understand the  
Government’s difficulty in doing that, because the Government is very busy doing  
everything else: attempting to interfere with our Constitution; attempting to  
interfere with settled and established practices, conventions and observances. Mr.  
Speaker, the gentleman said to us that the Government is doing precious little to  
deal with that serious problem of the Y2K.

Trinidad and Tobago therefore continues—if we are to take his word because  
he ought to know—to be sluggish and unresponsive to that very serious threat.



**2.45 p.m.**

The young man with whom I spoke yesterday explained to me—He looked at the situation of an elevator—that it is quite possible that in a moment that elevator can fall, if it is controlled and timed by a computer. He explained to me that—as modern technology would have it—in some buildings in some parts of the world, every evening at a certain time, the lift would go up and rest for the evening, wherever it is arranged so to do; and at 6.00 or 7.00 the following morning, however it is timed, it would rest itself and be ready for operation for the day.

He explained to me that if the computer instructs the machinery—it is programmed on the basis of times, 6.00 a.m. and dates—and the Y2K problem is such that it cannot recognize the date and/or the time, then it can go haywire. That is a mere straightforward and simple example of the kinds of situations that can transpire: so that it is a very serious matter indeed.

Mr. Speaker, the Minister of Legal Affairs and Member for Siparia was quite right when she pointed out the importance of the need for causing the application of that international treaty to become applicable in terms of our domestic law. Often times, many countries—and Trinidad and Tobago is guilty of that—entered into international agreements; and having so done, did nothing else where necessary, to cause those international agreements to be applicable in terms of local or domestic law.

As I recall, Germany is a country whose constitution permits Germany, at the signing of an international agreement, to give effect to it—well, it is automatically given effect to, inside of Germany. Germany's constitution arranges for that.

Insofar as the United States is concerned, I seem to recall—and I stand open to correction—that the United States would enter into an international treaty and it would interpret that treaty as it sees fit, and then publish its interpretation of that treaty in its domestic law. Often times, that process of reinterpretation or interpretation might very well be different from what was agreed to, or the understanding of what was agreed to, in the first place. Consequently, many countries have difficulty dealing with that, and other countries that probably practice that approach to giving effect to international agreements domestically.

In the context of Trinidad and Tobago we do it differently. As we did in 1996 with this Patent Co-operation Treaty, we simply give effect to it as we agreed to it, to the letter, in a schedule, in an Act of Parliament. So that whatever the wording of the treaty that we signed to, said, internationally, it is that that is now written into domestic law, and given effect by way of an Act of Parliament.

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Of course, if there is a dispute—as the Minister alluded to in her contribution—between one state and another over a patents matter or any such matter, two kinds of problems can arise: the problem of conflicts of laws. I am not an expert in that area of the law but, of course, there is a branch of law known as conflicts of laws that can pose a difficulty. But worse still, prior to giving effect to this legislation that came before us in 1996, it was agreed that if the matter felt to be settled in a local court, no judge in any local court could look at the international treaty for assistance in resolving the legal problem that is before him or his court. I am advised that it is not until and unless the treaty is made part of our domestic law, that a judge could really look at it for the resolution of a matter. So that if the Minister describes incorporating in 1996 and the validation today as dotting the “i”s and crossing the “t”s, I agree with her; and it is, indeed, entirely necessary.

Mr. Speaker, I cannot help but take note of the fact that in passing the Minister was highlighting the rationale for that kind of international arrangement in respect of patents. She said, and I agree with her, that it is twofold. Or, she said that it was really to avoid waste of resources by duplication. Because if the invention is done in Nigeria or in Egypt and it is not known of internationally, scientists in other countries could spend a considerable amount of time and other resources inventing or reinventing the wheel. So when it is published throughout the world—as this would cause—then much time and waste is saved, and that way, technology is advanced more efficiently to the benefit of all mankind. But I think there is another purpose: it is also, of course, designed to stimulate, or to encourage activity in the business of invention.

The Minister, as she was making her comments, spoke about the importance of information and gave examples: cultural information, technical information, economic information and, indeed, political information. She also mentioned that it was only last week we spent a considerable amount of time in this very august Chamber dealing with the question of the validation of a certain report of the Elections and Boundaries Commission. I want to remind the hon. Minister, since she spoke so gleefully and so beautifully about the importance of information—I want to remind the Government, through the Minister, that last week when we protested the fact that the Government wanted us to validate something we never saw—it was only after such protest that we got the documents and the report of the Elections and Boundaries Commission. She must bear that very firmly in mind. Information is important! Very important!

**Hon. Persad-Bissessar:** I thank the hon. Member for giving way.

Hon. members would recall that I gave the undertaking in this House that immediately you validate it and you give legal validity to the report, it would be distributed. So said, so done! [*Desk thumping*]

**Mr. Hinds:** Sadly, Mr. Speaker, I cannot join her colleagues to applaud her for that because it is not, in my in my view, accurate.

While this is not a debate on what we dealt with last week, I never accepted. I had spoken before the Member, so I did not have an opportunity to reply but I will take it now since she made her intervention today. I never appreciated—

**Mr. Speaker:** I think you should get back to the debate, please.

**Mr. F. Hinds:** I am obliged. I will be guided!

Mr. Speaker, information is indeed very important; I agree. You must not yield it only when you are exposed.

The Government, as it stands, should appreciate the point that I made, at the beginning of my very short contribution, that this legislation today, and the incorporation of the treaty into domestic law in 1996, and the signing of the treaty by the last administration, those are not activities that should exist in abstract; they must have meaning and benefit, most of all, to the people of Trinidad and Tobago. Therefore, I suggest, again, that the Government should, if possible—and I rather doubt that it is now possible because the economy has gone a bit haywire: we have already experienced economic Y2K in this country—direct some of its very scarce resources—and I say scarce because I raised the question in this Parliament. I am now told that Government is unable to pay NIPDEC for the repairs of the police vehicles that the Minister spoke about last week; so I know that they are strung up on cash and they have difficulties.

My recommendation, nonetheless, is that the Government should promote awareness because many inventors—while I was at the Ministry of Trade and Industry up to the end of 1995 as a legal advisor—from time to time, many persons would come to make enquiries about inventions that they would have put in place or attempted. I sensed then, and I have said so since, that much ignorance exists and many people are not even aware, so I suggest that the Government spend some time and money bringing about some awareness in respect of what has happened today and recently to the people of Trinidad and Tobago; and, as I said earlier, stimulate the whole business of inventions in our country.

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**2.55 p.m.**

The Minister spoke about the laws that we had just prior to these arrangements: as old as what—Queen Victoria, or from the time of Queen Victoria? That is quite true. But while the business of patenting internationally existed a long time ago, and I listened to a calypsonian this season sing about an old artiste in that art-form an old exponent, now dead of course, Lionel Belasco. In that song I learnt that as long ago as when Lionel Belasco was a young man and began his career, he had protected by way of copyright, I think, his work “Rum and Coca Cola” in Europe and other parts of the world. It has been around for a very long time but the hon. Member must agree with me that it is only within recent times that there has been a serious concentration for the development of the whole system of international protection of both copyright and patents and, therefore—maybe over the last few administrations or so in this country the focus internationally was not on that and I suspect that it affected us in Trinidad and Tobago as well.

Mr. Speaker, the Member made mention of the fact, and it is my duty to remind her, that when we had debate to incorporate the law domestically, the Member would recall that in my contribution on that occasion we had noted the establishment of the Intellectual Property Office. All of the records, activities and management of this treaty and this legislation would be done by that office. At that time, and I do not know if it has changed, that office was situated on Frederick Street, opposite to Hart Street on Frederick Street, downtown Port of Spain and it was in the middle of clothes stores and that kind of commercial activity in Port of Spain.

In London, the Patents Office is also in the city centre, but it is a building that stands solidly on its own. Therefore, if there is a fire next door on Frederick Street, we run the risk of seeing all of the information that this legislation and others like it, in terms of protecting works, copyright and so forth, housed at the Intellectual Property Office may go up in flames.

While that may sound unimportant and insignificant to that Government, it is to my mind, a very important matter because having gone through all of this and won the admiration of our colleagues at the international level, then one Thursday morning or one sad day, all is lost. The Government demonstrated that, as strung up for cash as it is, it could find \$52 million to pay to Maritime and come to the Parliament to get our approval to pay it—dubious payments.

The Government has demonstrated that it could quite easily, as it did in National Flour Mills, waste and fritter away TT \$30 million. The Government has



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Mr. Speaker, let me deal with clause 2 of this Bill. Clause 2 of this Bill is the heart of this legislation, the engine room of it and it says—and I need not quote it because we had the Minister put it on the record: she quoted it. It deals with the question of the international filing date in respect of persons who filed into Trinidad and Tobago as a designated country in terms of that application.

I say that this goes beyond the heart of the legislation, it really is the heart of the matter and I spent some time a while ago attempting to explain and demonstrate that we ought to be looking for the greater benefits of Trinidad and Tobago in all this. So I do not think I need to revisit that.

**3.05 p.m.**

There are some problems; one of them is that Trinidad and Tobago is probably not yet at the cutting edge of the information technology revolution which is taking place and we need to be looking in that direction. There is also a psychological matter which we must address in this country. There is a tendency in this country to gleefully get involved in things and say yes, we have done it. That is all well, but how the practical aspect applies and how it benefits us in Trinidad and Tobago is another matter I have raised and I would like the Minister and the Government to take note.

Mr. Speaker, altogether we are quite satisfied that this legislation—to use the  
All we do is recommend that  
the Government does what it has to do as a government to give practical effect so that the benefits to be yielded would flow into Trinidad and Tobago and improve the amount of patents that Trinidadians and Tobagonians would seek to register under the treaty, internationally.

We on this side support the Bill and we assure the Minister that as a responsible PNM team in this House we would continue to do all that we must in order to ensure that Trinidad and Tobago advances positively as we expect it should.

Thank you.

**The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar):** Mr. Speaker, I begin by thanking the Member for Laventille East/Morvant for his unqualified support for this Bill and to thank him for agreeing that we must take steps to ensure that when Trinidad and Tobago enters into an international treaty, when it is signed, steps should be taken to make it part of our domestic law. I thank him for the support and for agreeing that this is what we should do and, in fact, he knows this is what we are doing with this Bill.

The Member started his contribution by saying Trinidad and Tobago seems to be jumping to the beat of an international drum. On the one hand he is saying he agrees that we should bring the international treaties into the domestic law, and in some other part of his contribution he talks about Trinidad and Tobago jumping to the beat of an international drum.

**Mr. Hinds:** What I said is that there are those who would hold that view and there may be some measure of justification, but I did not say that we did.

**Hon. K. Persad-Bissessar:** For those who may hold such a view, should it not be him, and there are others who may say that we are jumping to the beat of an international drum, in my presentation, I talked about us living in the age of information technology, living in the global village and at this time as we stand on the threshold of the new millennium, it is very clear that no man is an island and no country can stand on its own. It cannot continue. No country, no nation can continue to beat drums only in its own backyard. We have to go with the drum around the global village and the Member well knows, and I said before that these treaties were signed prior to this Government taking office. Those international obligations were created before we came into office and I agree that those steps should have been taken, so for those who may hold the view that we should not have this kind of international linkage, it is my respectful view that it is totally wrong in this time and age of information technology and the global village.

The Member raised quite a few points in terms of concerns which I would be happy to try to provide some information about. He asked about local applications. The experience has been that there are very few local applicants who use the Patent Corporation Treaty because they usually focus for protection here in Trinidad and Tobago, and even if their interest in protection is overseas, they tend to consummate on one or two countries rather than on the 100 states of the Patent Co-operation Treaty so that in such a case the advantage of the Patent Co-operation Treaty itself is of much less value to the Trinidad inventor.

The experience has been that they tend to use the local protection and then one or two other countries. The number that has been filed with respect to Patent Co-operation Treaty application in 1998 by Trinidad and Tobago nationals, was only three. With respect to the filing for national patent protection, however, there were 18 in 1997, and only three in 1998. This, of course, reflects the raising of the assumption of validity expected for those who register in 1998 after the new law came into effect.

Mr. Speaker, these numbers are quite small and the Member has asked quite rightly, what are we doing and what should be done, and indicated that we should

take steps to encourage and stimulate local inventors. Perhaps it may well be, given the small size of our population, that the number of inventors of these very technical, highly technological kinds of inventions would be smaller. We have nonetheless been seeking to encourage and stimulate local inventors in our own way through the Ministry of Legal Affairs.

The Intellectual Property Office of our ministry has been working with the Local Inventors' Association and with assistance from the World Intellectual Property Organization, we have been able to place the Local Inventors' Association in contact with International Federation of Inventors' Association and, of course, the provision of patent information services by our Intellectual Property Office would also, in my respectful view, assist in contributing to stimulating greater and more efficient creativity and invention here. In fact, our Local Inventors' Association through the contacts they have been able to make with the International Federation of Inventors' Association has, in fact, gone abroad on inventors symposium. So that we have been taking some steps to try to stimulate and encourage local inventors.

Mr. Speaker, the Member asked what are the benefits of membership of the Patent Co-operation Treaty to Trinidad and Tobago, if the applications actually filed were so small. I did indicate in my opening statement that the benefits generally, of this kind of legislation for patents, for protection of invention and other areas of creativity—perhaps the Member was not in the Chamber at that summarize, some of the benefits would be an improved investment climate to Trinidad and Tobago, better legislation as to technology and, of course, it could improve the research and development effort.

In Trinidad and Tobago, there is much foreign investment coming in and if we are to attract foreign investment, it is important that we have this kind of protection because international companies would not want to operate in an environment where their creativity and inventiveness are not given adequate protection. And whilst it is true that the Member said 100 years ago in 1900 when we were operating with the Victorian law there was no need for this kind of thrust because there would not have been very much activity in this area, I disagree with him when he said the focus is more now. The technology has been changing. In the last 30 years, there has been rapid improvement in information technology. Witness what is happening on the Internet. Every single thing you could think or imagine is on the Internet in terms of information and access to that information. So the world has opened up tremendously and there must be protection for these intellectual efforts within a nation if we want to have that kind of international



linkage and investment in Trinidad and Tobago. Again, what are the benefits to Trinidad and Tobago of legislation of this kind? It is to give us that improved investment climate so that we could encourage those who are wishing to invest and who have the money to invest to come to Trinidad and Tobago to do it. It gives us a better access to technology and, of course, improves our research and development efforts.

The Member spoke about the housing of the office for patents where patents are filed and so forth. The computerization of records in the Intellectual Property Office is taking place now and the public should be able to access patent information in Trinidad and Tobago through the office by a website by the end of the year. So most of this information would be on computer and the public would be able to access from the Intellectual Property Office website.

In terms of the role of the Intellectual Property Office in all this, the Patents Act sets out its role and functions and it is interesting how much work has been done in that office with respect to the modernizing of it. The actual building, I agree, as so many other Government buildings, is still in the dark ages and the Member well knows the Intellectual Property Office was formally the office of the Assistant Registrar for Intellectual Property and also houses the Companies Registry of this country. We inherited those buildings, we met those offices in that dilapidated state and the Member is being most uncharitable and perhaps has a very short memory in terms of speaking about housing of these offices. This Red House is a prime example. And in terms of what is happening with the land records in this country and because we have been seeking and trying to provide alternative accommodation, I think the Member is uncharitable when he says that we are not paying sufficient attention to that. I have been taking every step I can to move out the records of the Lands Registry, the Civil Registry out of this building, the records of the Companies Registry and those of the Intellectual Property Office that are housed on Frederick Street. His administration had it there for all these years, and he is most uncharitable if, within the last year or so, some progress has been made.

At each point in time there would be some obstacle. We did encounter difficulties at the Huggins building, however, work is continuing on that building and we would have access and use of it later this year.

In addition, the measure at the Huggins Building is a temporary one to house some of the sections of the Ministry of Legal Affairs and some of the most important documents relating to title, land, companies, and civil information, these kinds of information which are very important and vital in a country. The building

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at Huggins is only a temporary measure because Cabinet has approved plans for an entire centre to be built as headquarters for the Ministry of Legal Affairs in Port of Spain so we would have more modern facilities. It cannot happen in one year, there is no way it can happen in one year, but the plans are there for a longer term to prepare and have in place a proper building for the Ministry of Legal Affairs.

**Mr. Hinds:** I thank the hon. Member for giving way. I have desisted from politicizing the debate, so I now request from her that she talks a bit about my question on what the Government is doing to deal with the threat of the Y2K problem. I would rather hear a bit about that.

**Hon. K. Persad-Bissessar:** Mr. Speaker, the Member can certainly file the question and we would answer it, but we are dealing with the Patent Co-operation Treaty designating Trinidad and Tobago, but Government is, I assure you, taking steps and measures to deal with the Y2K problem. We are not sleeping on it, but that is a subject of another debate. With the greatest of respect I do not see how that falls into place in dealing with the Patent Co-operation Treaty. The point is, we are working on it; Minister Griffith, through his ministry has a lot of work going on with respect to that; Minister Assam also has a lot of work going on in that. So we are not sleeping.

They were there a few years ago, did you take any steps about the Y2K problem at all? This Government is dealing with it. *[Interruption]* Everything was too early, that is the problem. They were operating with Victorian law from 1900 and he is telling me there was not much happening with patent so they did not change the patent law, there was not much happening in intellectual property so they did not do anything. Everything was too early.

I thank Members for their contributions and suggestions and I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in Committee.*

**3.20 p.m.**

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

*Preamble ordered to stand part of the Bill.*

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*Question put and agreed to, That the Bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment; read the third time and passed.*

**Hon. Ramesh L. Maharaj:** Mr. Speaker, I indicated to the acting Opposition Chief Whip, the Member for Diego Martin East, that we will go to the Motion by the Minister of Foreign Affairs, after we will do the Land Acquisition Motion and come back to the Motion with respect to the Motor Vehicles.

**Mr. Speaker:** I thought you wanted to come back to the Joint Select Committee, have you agreed on that?

**Hon. Ramesh L. Maharaj:** No.

**Mr. Speaker:** I see, Okay.

**JOINT SELECT COMMITTEE  
(APPOINTMENT OF)**

**The Attorney General (Hon. Ramesh L. Maharaj):** Mr. Speaker, I beg to move the following Motion:

Be it resolved that a Joint Select Committee be established to consider and report on the Bills entitled 'An Act respecting human reproductive technologies and commercial transactions relating to human reproduction' and 'An Act to make provision for the removal of human tissues for transplantation and blood for transfusion and for matters connected therewith and

Be it further resolved that this House appoints the following six members to serve with an equal number from the Senate on this Committee:

Dr. Hamza Rafeeq

Dr. Reeza Mohammed

Dr. Fuad Khan

Mr. Chandresh Sharma

Dr. Keith Rowley

Mr. Hedwidge Bereaux

*Question put and agreed to.*

**PRIVILEGES AND IMMUNITIES  
(CONVENTIONS OF LOMÉORDER)**

**The Minister of Foreign Affairs (Hon. Ralph Maraj):** Mr. Speaker, I beg to move the following Motions standing in my name:

Whereas it is provided by section 9(2) of the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, Chap. 17:01 (hereinafter referred to as "the Act") that the President may by Order declare that any international or regional organisation or agency named or described in such Order shall, to such extent as specified in the Order, be accorded the privileges and immunities set out in Part 1 of the Fifth Schedule therein;

And Whereas it is also provided by subsection (3A) that an Order made under subsection (2) may, notwithstanding anything contained in that subsection or in any other written law, confer on the organisation or on such persons or classes or persons as are referred to in subsection (3), or on persons who have entered into contracts financed by the organisation, such immunities, privileges or exemptions, as the case may be, as are required to give effect to any international treaty or convention in that behalf to which Trinidad and Tobago has been a party;

And Whereas it is also provided by section 9 of that Act that every Order made under that section shall be subject to affirmative resolution of Parliament;

And Whereas the President has on the 2nd day of September, 1998 made the Privileges and Immunities (Conventions of Lomé) Order, 1998 be approved.

And Whereas it is expedient that the Order now be affirmed.

Be it Resolved that the Privileges and Immunities (Conventions of Lomé) Order, 1998 be approved.

Mr. Speaker, the purpose of this Order is to be found in paragraph 2 of the Order, dealing really, with Mr. Gavin McGillivray, a foreign expert who has come to work here in Trinidad and Tobago under the LOMÉ Convention, under the arrangements that Trinidad and Tobago enjoys with the European Union and, in particular, to work in the Caribbean, Regional, Agriculture and Fisheries Development Programme of Cariforum.

The purpose of this Order is to grant privileges, immunities and exemptions from the payment of customs duty, purchase tax, stamp duty and other direct or indirect tax on personal and household effects imported within eight months of its arrival for its personal use.

Trinidad and Tobago, as part of the African, Caribbean and Pacific Group, enjoys a very special relationship with the European Union. In fact, that is one of the

foundations of our relationship with the countries of Europe and, under that LOMÉ Convention, we have certain arrangements whereby programmes are engendered for the benefit of Trinidad and Tobago and other countries of the African Caribbean Pacific.

There are two main programmes operating under the LOMÉ Convention from which we get direct assistance. These two programmes are the National Indicative Programme, which is specifically directed to Trinidad and Tobago; and as well, the Regional Indicative Programme, which involves Trinidad and Tobago and the other countries of Cariforum, which is the Caribbean component of the African, Caribbean and Pacific Group.

It is under the Cariforum projects, under the Regional Indicative Programme that this Caribbean Regional, Agricultural and Fisheries Development Programme is placed. In fact, this is financed from the first financial protocol of the Lomé IV Convention and the programme was allocated \$22.2 million and is designed to be executed over a six-year period.

**3.30 p.m.**

This particular programme is intended to develop the agricultural and fisheries sectors in the Cariforum countries, with particular emphasis on market research, management of stocks and encouragement of the private sector in the particular areas. As you know, Mr. Speaker, in the agricultural and fisheries sectors in Trinidad and Tobago, we have not yet had the kind of private sector participation that we would like. In fact, we are of the view that the way forward for the agricultural sector and for the fisheries sector, is for the injection of significant private sector capital. That is the way we see forward for these sectors and we feel that this programme will be of tremendous benefit to these sectors in Trinidad and Tobago.

May I repeat that the ECU \$22.2 million which has been assigned to this project really is a grant. This is not loan funding; this is grant funding which we enjoy under the European Union arrangement of the Lomé Convention.

Now, the question has to be asked: Why are we giving to Mr. McGillivray these exemptions and so forth? The answer to that lies in Protocol 6 of the Lomé Convention which we signed and which states at paragraph one, Article one, that ACP states are enjoined to apply to contracts financed by the community, tax and customs arrangements no less favourable than those applied viz-à-viz the most favoured state or most favoured international development organization. So, we are part of Protocol 6 which asks us to apply these arrangements to contracts.

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But, we must also draw Members' attention to the fact that Act No. 18 of 1988 amended the Privileges and Immunities Act by the insertion of a new subsection 3A and that Act No. 18 extends to persons. So that while Protocol 6 asks us to apply the exemptions and so forth to contracts, Act No. 18 which we amended, extends to persons who have entered into the contracts financed by the European states; not all persons, but persons who come here on contracts financed by the European Union, such privileges or exemptions, as the case may be, as are required to give effect to any international treaty or convention on that behalf to which Trinidad and Tobago is or has been a party. In order for that to come into effect, an order has to be passed in this House and this is the reason we are here with this Motion, Mr. Speaker.

Also, there is precedent for it. An examination of the Consolidated Index of Acts and Subsidiary Legislation as at January 1, 1997 reveals that there have been four orders: Nos. 199 and 200 of 1989, and Nos. 88 and 89 of 1990. These orders did extend exemptions to European Union financed contracts and projects pursuant to subsection 3A of section 9 of the Act.

So that there is precedent; this is nothing strange or unusual we are doing here and some of those orders have included first arrival privileges for persons engaged in projects or executing European Union contracts. So, what we are seeking to do here for Mr. McGillivray has been done for other persons who have come to work here under European Union financed contracts.

Of course, when we are talking about exemptions and so forth, we are asking the state to forego revenues and, of course, that can only be done with the approval of the people's Parliament. This is why this is here today. Having said that, of course, it must also be remembered that Parliament enacted legislation in 1998 to recognize Trinidad and Tobago's treaty obligations on the Convention.

The essence of all this is that Trinidad and Tobago has an obligation under the Lomé Convention to grant these exemptions to Mr. McGillivray and it is not something that we are doing loosely or irresponsibly. We are giving these exemptions because we are also benefiting. As I said, we have benefited tremendously over the years from grant funding under the Lomé Convention.

There have been many budgets and I am sure the Member for Diego Martin Central will remember that budgets have been financed, to a certain extent, from grants under the European Union. So that nobody should go away with the idea that what we are doing here is something irresponsible, that we are giving away the shop, that we are giving away revenue, without any proper, sound rationale.

Mr. Speaker, I feel this is a very simple Motion and I do not anticipate any serious objections to it. In fact, I feel very certain that this Motion will receive unanimous support from Members of the House.

I beg to move.

*Question proposed.*

**Mr. Barendra Sinanan** (*San Fernando West*): Mr. Speaker, we on this side of the House support the mover of the Motion in seeking the approval of the House on the Privileges and Immunities (Conventions of LOMÉ) Order, 1998. Whilst the Motion may appear very simplistic, the general public is hardly ever interested in a motion such as the one before the House. It will, therefore, be instructive if I take the opportunity to restate what the Lomé Convention is all about.

The Lomé Convention is an agreement between the European Union and African, Caribbean and Pacific states on co-operation in the development of all economic sectors and in matters of cultural, social and regional co-operation, and the protection of the environment. In the field of trade co-operation, it aims at developing trade relations between the African, Caribbean and Pacific states and the European Union; among the ACP states and neighbouring countries in the region, and industrialization and development of the agricultural sector to which the Minister referred in his contribution.

We are governed by the fourth Lomé Convention which was signed on December 15, 1989 between 68 African, Caribbean and Pacific states and 12 members from the European Economic Community. The convention is for a period of 10 years, therefore, the convention would expire on December 14, 1999. Now, I am not sure whether there are negotiations for the renewal of this convention, or if there is a fifth convention being negotiated.

The objective of the trade agreement is to promote trade between the ACP states and the European Community by improving the access of goods produced in the ACP, to the European Community. With the review of the fourth convention, however, in the negotiations on trade and trade matters, the emphasis in the ACP/EU trade co-operation switched from preferences, because this is what it is all about, to identifying ways of really developing trade.

Thus, the main aim of trade development is to improve the ACP states' competitiveness, rather than as in the past, extracting maximum value from preferential agreements. This is in keeping with the modern trends of the world in that more developed countries no longer think it necessary or desirable to continue

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to give grants and hand out moneys to less developed countries. They want to give grants in such a way that they will make these less developed countries more competitive in the global environment.

The preferential regime is now being seen as just one among many other ways of developing trade. In addition, trade development is not limited to increase ACP/EU trade, but covers all potential ACP markets including internal and regional outlets. So far as it affects Trinidad and Tobago, the Lomé Convention has three very important aspects that concern our country.

We have the rum protocol, the sugar protocol and the banana protocol. With respect to the last, the banana protocol, we have noticed within the recent past, banana wars and banana splits going on between the European Community and the American government and I noticed that within the last three weeks or so, the Caricom heads issued a statement in support of the position of those members of Caricom that would be disadvantaged by the ruling of the World Trade Organization so far as it related to bananas. I am not too sure if our own government came out—

**Miss Nicholson:** Strong enough.

**Mr. B. Sinanan:** Yes. Strong enough—

**Mr. Maraj:** You did not read the newspaper!

**Mr. B. Sinanan:**—because I did get the impression that there was some mix up, perhaps, in the statement of the Minister as against what came out of the office of the Caricom Secretary General. I did get that impression that this country, as part of Caricom, did not come out in agreement.

**Mr. Maraj:** Total rubbish!

**Mr. B. Sinanan:** But I am hearing the Minister saying that our country did support other Caricom member states, which is what should and must happen. Perhaps, what the Minister did not do, was to do it as forcefully as he is able to.

With respect to the rum protocol and the sugar protocol, the convention, as I said, expires in December of this year and, perhaps, the Minister can enlighten us as to the status of any new negotiations for Lomé V and how it would affect Trinidad and Tobago, especially in terms of sugar.

**3.45 p.m.**

Mr. Speaker, we are now in the country experiencing difficulty at Caroni (1975) Limited with their ability to produce the amount of sugar we think they are



capable of producing and I think the first shipment has been made to the European Community. I hope that our obligations to the European Community will be fulfilled with this crop, because we do get preferential access and preferential payments for our sugar and our rum.

So I would wish the Minister to indicate to the House where we are at in terms of the expiring of the present LOMÉ Convention and what progress has been made in having a new protocol agreed upon, as, certainly, if we are now talking in terms of global trade where the big countries of the world and especially the United States is against this idea of preferential treatment to former colonies and less developed countries, we all have to compete as if we are one. And as I said earlier, the idea of aid and preferential treatment is going to become something of the past in the 21st Century, so we as a nation have to be geared up to rely solely on our own ingenious ways of doing things, promoting ourselves and being very competitive in the global economy.

So, Mr. Speaker, with these few words I again wish to indicate to the mover of the motion and the House our support on this side of the House for the adoption of the resolution before us, that is, seeking the confirmation that the Privileges and Immunities (Convention of LOMÉ) Order be approved. I thank you, Mr. Speaker.

**The Minister of Foreign Affairs (Hon. Ralph Maraj):** Mr. Speaker, let me thank the Member for San Fernando West for his support for the Motion. He also took the opportunity, unnecessarily I think, to repeat what we all know about the LOMÉ Convention, repeating what is common knowledge in this House about the LOMÉ Convention. I do not know if he was trying to take up time in making a contribution that really did not have much substance; very little substance. In fact, he asked about what we were doing with respect to the negotiations. Let me assure him that Trinidad and Tobago is very, very actively involved in negotiations for post LOMÉ arrangements when the present one comes to an end and we have very clear parameters and principles upon which we have embarked to deal with these negotiations.

He asked about the preferential access. The position is that we seek to maintain the preferential access for as long as possible to allow those economies of the ECP countries the time to develop those policies and those directions which will prepare them for insertion into the global economy. We seek to maintain the rum protocol and the sugar protocol as separate protocols from the general agreement that we are negotiating, which is what was operative in the previous arrangement. And so, we give you the assurance that we are working very actively

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and very positively with our ECP partners in seeking to fashion a new instrument of co-operation between the ECP countries and the European Union.

The hon. Member was very unfair, I think, in accusing the Government of Trinidad and Tobago of being lukewarm in its position on the banana issue. That is totally unfair and totally untrue. I have said it over and over as the Foreign Minister of Trinidad and Tobago, the Prime Minister himself is on record as saying it, that we are in full support of the banana-producing countries of the Caricom region. And I wish other Members would stop talking and listen to what I am saying so that they would not misquote me again.

I have said it before over and over in this Parliament, in the other place, in Trinidad and Tobago and outside of Trinidad and Tobago. The Prime Minister himself has said it [*Interruption*] that we are in full support and in solidarity with the banana-producing countries of Caricom. We have said it over and over and we have made the point very clear that it is not only a question of solidarity; it is also a question of self-interest because we know that if those economies dip, their purchasing power is lost and we do not export as much as we export to them and there would be unemployment at home.

We recognize the importance of the Caricom integration process to Trinidad and Tobago and we have made that point absolutely clear over and over. So how can you come now and accuse this Government of not supporting the banana-producing countries of the region? [*Interruption*] No, I will not give way. If you are unfair to me we will not give way. We will not give way.

The point is, that issue we discussed at the intercessional recently, and we made it very clear that we deplored the unilateral action of the United States in challenging the European banana regime. We deplored the action of the United States and at no time did the Caricom heads of government take a decision to suspend co-operation with the United States, the kind of co-operation that was envisaged in the Bridgetown Accord. It was a distortion that came out and I took the opportunity, after the media asked me about it, to explain our position, that Trinidad and Tobago, like the rest of Caricom, deplored the unilateral action of the United States and we would seek to open dialogue to determine a basis for going forward on that particular issue; a very responsible position as always.

So I would be very vigorous in my defence of the foreign policy of Trinidad and Tobago especially when people seek to, you know, peddle distortions and peddle half-baked ideas as to what we are doing in this department of the Government of Trinidad and Tobago.

Having said that, Mr. Speaker, I thank the Member for his support and I beg to move.

*Question put and agreed to.*

*Resolved:*

That the Privileges and Immunities (Conventions of LOMÉ) Order, 1998 be approved.

#### LAND ACQUISITION

**The Minister of Housing and Settlements (Hon. John Humphrey):** Mr. Speaker, I beg to move, the following Motion standing in my name,

That this House approve the decision of the President to acquire the land described in the Appendix for the public purpose specified.

Mr. Speaker, this is two small parcels of land together comprising 150.1 square metres more or less, situated on the southern side of the Eastern Main Road in Valencia, approximately 40 metres east of the 22 1/4 mile mark in the ward of Manzanilla, the County of St. Andrew and said to belong now or formerly to Fay Kangalee. The subject acquisition is at the request of the Minister of Works and Transport and is required for a public purpose, namely the realignment of the Valencia River to alleviate flooding.

In response to a spate of complaints about severe flooding from residents in the Valencia area, the Minister of Works and Transport undertook to realign the Valencia River utilizing two parcels of land said to belong now or formerly to Mrs. Fay Kangalee. In view of the urgent action which was necessary to carry out remedial works, as well as the severity of the flooding, publication of sections 3 and 4 of legal notices is required under the Land Acquisition Act, No. 28 of 1994 to enter on the lands described as overtaken by physical works which were initiated in 1990.

The project having been completed during 1992 has alleviated the flooding problem to the extent that the residents, including Mrs. Kangalee, have expressed their delight and satisfaction. More detailed information on the two parcels of land together comprising 150.1 square metres said to belong to Mrs. Fay Kangalee can be obtained on a survey plan filed in Book 1140 Folio 192 in the vault of the Land and Surveys Department, Red House, Port of Spain. The procedure for the acquisition of lands for public purposes is standard and we have brought these arrangements before this honourable House from time to time. On this occasion we were indeed honoured to expedite the process and I beg to move.

*Land Acquisition*  
[HON. J. HUMPHREY]

*Friday, March 19, 1999*

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, the Minister in his presentation did not highlight the fact that this was work done by the People's National Movement government and, therefore, the delight expressed by the people should be directed on this side. We therefore have no difficulty—*[Interruption]*—yes, but we completed it, and therefore we have no difficulty in supporting this Motion.

**4 00 p.m.**

**Miss Pamela Nicholson** (*Tobago West*): Mr. Speaker, I am rising here again this evening to ask my question again as to what is happening to a number of problems in Tobago as far as acquisition is concerned. After observing this Motion Sir, I decided that I would raise the question again because in the Crown Point area, that is in the heart of my constituency, we are having some problems where people are being refused permission to sell their lands, or to construct homes on those properties, Sir.

I can remember raising this question the last time that a Motion like this came up in the House, and we were given the satisfaction that this matter would be addressed soon. I also made sure, that I communicated with the Member for St. Augustine with regard to two persons. One is in the heart of the Crown Point Area. One lady, Mrs. Dalrymple, is renting a home; but she has some acres in the Crown Point area, and she wants to sell the lands and then to construct her home. We were told that the matter would have been addressed and to date, I have not received any response as to why these people are not allowed to sell their properties; why these people are not given permission to build their homes.

You also have another area that is a block of lands where over 25 residents in that area are also affected and they are complaining all the time. I again raised the question with the Member for St. Augustine and I did it in writing. So the people are being prevented from making use of their lands if they want to sell the lands, and if they want to construct their homes, they are also being prevented. There are some people being told that the project re-the Airports Authority is going to be taking place and a, b c and d would be done. So they are there in a flux. I would be very happy, if the Member for St. Augustine could tell us something about that situation.

**Mr. Fitzgerald Hinds** (*Laventille/East Morvant*): Mr. Speaker, I shall reserve my contribution for another debate on this subject of land acquisition, Mr. Speaker. Thank you very kindly.

**The Minister of Housing and Settlements (Hon. John Humphrey):** Let me first congratulate the Hon. Member for Diego Martin East for the best contribution he has ever made in this House. [*Desk thumping*]. I look forward to similar contributions in the future.

On the question of the problems in Tobago, Mr. Speaker, allow me to inform this honourable House that earlier this week at the invitation of the hon. Prime Minister, I had both the honour and pleasure to sit with representatives of Tobago, the Chief Secretary of the Tobago House of Assembly, and his advisors and matters pertaining to the Airport were discussed, and also matters pertaining to land acquisition and other affairs that interest the people of Trinidad and Tobago and, particularly, the people of Tobago.

I was able to advise the Chief Secretary and his delegation, that we have in the pipeline an exercise of physical planning for both Trinidad and Tobago where a contract has already been awarded for developing a conceptual master plan that will guide future development of Trinidad and Tobago.

In terms of the Airport Development, the firm of Birk-Hillman, architects, was contracted to design both the Piarco Airport and the Crown Point Airport. Six possible alternatives have been presented for the Crown Point Airport. Now these were discussed. No one of the six has finally been selected Mr. Speaker, but, the process is on-going, because the Tobago House of Assembly has some ideas that are a little at variance with the Airports Authority of Trinidad and Tobago.

So we are seeking, in fact, to resolve the design question, and the moment that is done, we can then release all the land that is not impacted by the development. At the present time, very unfortunately, the land has to be sterilized until a design is finally selected. This affects many of the land owners that the Member for Tobago West is speaking about.

Mr. Speaker, that exercise is on-going and the physical planning programme has started in earnest, and I am hoping that during the course of this year, in fact before the end of this year, we will have for the consideration of the people of Tobago, at least a conceptual master plan. This conceptual plan, is taking into account all the studies, and all the planning proposals that have ever been put on the table in the past. I can assure hon. Members that it is going to be a plan that will inspire the national community and will guide the future development of Trinidad and Tobago to the satisfaction of everyone, Mr. Speaker. So with that, I beg to move.

*Question put and agreed to.*

Resolved

That this House approve the decision of the President to acquire the land described in the Appendix for the purpose specified.

**APPENDIX**

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p>1. The following parcels of land comprising 2477.9 m<sup>2</sup> more or less, situate at opposite Light Pole No. 454, on the Eastern Main Road, Arouca in the ward of Tacarigua in the county of St. George described in the Schedule and coloured raw sienna on plan of survey signed by the Director of Surveys and dated March 26 1996 and filed in his office are required for public purpose: Drainage Improvement.</p> <p style="text-align: center;"><b><u>SCHEDULE</u></b></p> <p>Six parcels of land containing together 2477.9m<sup>2</sup> more or less, situate opposite Light Pole No. 454 on the Eastern Main Road, Arouca in the ward of Tacarigua in the county of St. George and comprising as follows:</p> <ul style="list-style-type: none"> <li>(a) 5.3m<sup>2</sup> more or less said to belong now or formerly to Bachu;</li> <li>(b) 16.4m<sup>2</sup> more or less said to belong now or formerly to Bachu;</li> <li>(c) 1.6m<sup>2</sup> more or less said to belong now or formerly to Shek Mohammed;</li> <li>(d) 428.9m<sup>2</sup> more or less said to belong now or formerly to W. Ash;</li> <li>(e) 1422.3m<sup>2</sup> more or less said to belong now or formerly to Gerald Richardson; and</li> <li>(f) 603.4m<sup>2</sup> more or less said to belong now or formerly to Home Construction Limited.</li> </ul> <p>These parcels are more particularly shown coloured</p>	<p>Drainage Improvement</p>

raw sienna on a Survey Plan filed as J.B. 135 in the vault of the Lands and Surveys Department, Red House, Port of Spain.	
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**MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) REGULATIONS**

**The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh):** Mr. Speaker, I rise to present the motion to this Honourable House, which reads as follows:

*Whereas* it is provided by section 100 of the Motor Vehicles and Road Traffic Act that the President may make Regulations in respect of, *inter alia*, the better carrying out, generally, of the provisions of the Act and in particular for the safety, control and regulation of traffic and the use of vehicles or any class of vehicles on any road the conditions under which they may be used;

*And Whereas* it is also provided by section 100 of the Act that Regulations made under that section shall be subject to affirmative Resolution of Parliament;

*And Whereas* the President has on the 9th day of September, 1998 made the Motor Vehicles and Road Traffic (Amendment) Regulations, 1998;

*And Whereas* it is expedient that the Regulations now be affirmed:

*Be It Resolved* that the Motor Vehicles and Road Traffic (Amendment) Regulations, 1998 be approved.

Mr. Speaker, also amendment passed in the Senate and circulated include:

- “In regulation 3
- A. Delete paragraph (b).
  - B. In paragraph (dd) delete sub-paragraph (iii).
  - C. Delete sub-paragraph (nn).
  - D. In proposed regulation 27(1)
    - (a) insert between the “a” and “motor” in line 1 the words “public service”.

**4.10 p.m.**

- (b) Delete the word 'biannually' in line 19 and substitute the word 'biennially'

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- (E) In proposed regulation 27(12) delete the words 'six months' and substitute the words 'one year'.
- (F) In proposed regulation 27D(1) insert after paragraph (d) the following new paragraph:
  - '(e) is found to be in breach of his duties under the Act.'
- (G) In proposed regulation 27N(3) by deleting paragraph (b) and substituting the following:
  - (b) If the vehicle is removed from the vehicle testing station in consequence of a note of refusal of a test certificate but within six weeks of the date of issue of the notice it is brought to and left at that vehicle testing station for further examination there shall be no fee payable in respect of that further examination; however -
    - (i) if the vehicle is brought back to the same vehicle testing station outside of the six weeks period, a fee of \$100.00 shall be payable; and
    - (ii) if a vehicle is brought to another vehicle testing station the amount payable in subregulation (1) shall be payable.'

Mr. Speaker, the objective of this Motion and the purpose of these regulations is two-fold. In the beginning I will like to say that the proposed use of private garages in Trinidad and Tobago and its consideration began as far back as 1978. One could generally amend the Motor Vehicles and Road Traffic Regulations to make it compatible with recent traffic and vehicular trends, as well as the most recent amendments of the Motor Vehicles and Road Traffic Act, and two, to lay the legislative foundation for the forthcoming system of vehicle inspection by private garages.

Clause 3(a) seeks to amend regulation 2 in the following manner:

- "(a) by inserting the proper definitions of 'City of Port of Spain', 'City of San Fernando' and 'Borough of Arima', as well as inserting the definitions of 'Borough of Point Fortin' and 'Borough of Chaguanas', under the First Schedule of the Municipal Corporations Act No. 21 of 1990.
- (b) by inserting the following definitions
  - 'Centre line' - to assist with the provision of the Motor Vehicle and Road Traffic Act and Regulations dealing with the flow of traffic; and



the inclusion of a comprehensive definition of 'overcrowding'."

Clause 3(c) is specifically designed to prevent the abuse of "D" plates. Under the new subsection (5) persons who seek to conduct legitimate business under the dealers general licence after traditional working hours must get the expressed authority of the Licensing Authority to do so. In this way, the authority seeks to crack down on those recalcitrant dealers who conduct extracurricular activities under the guise of the dealers' general licence, and generally abuse the authority given.

Clause 3(d) simply adds the term "portable scales" in order to reflect the machinery that is in common usage with respect to the weighing of the vehicles. Mr. Speaker, this clause would now authorize our transport officers to go around with portable scales and use them in an appropriate manner to ensure that the weights comply with the laws of Trinidad and Tobago.

Clause 3(e) seeks to cater for applicants for driving permits who may be unavoidably absent or unable to deal with the permit within the time that the said permit expires. Once the Transport Commissioner is notified as to the *bona fides* day of such an applicant, he may deal with an application for renewal if such an application is made within six months of the permit's expiry date. In this way, that sector of the driving public that is inconvenienced by virtue of their *bona fide* inability to renew their permits within the proper time shall be catered for.

Clause 3(f) concerns itself with conductor permits, those permits authorizing the holders to act as conductors on board motor omnibus. The fee for a permit, \$2.50, is outdated, therefore, it has been replaced by the words "prescribed fee". The term "automotive licensing officer" occurring in subregulation (6) is replaced by the term "transport officer". This is in line with the amendment made in the Motor Vehicles and Road Traffic Act by means of Act 25 of 1997, which provides that all officers within the Transport Division shall be named in statute by the generic term "transport officer". Various amendments of this nature shall re-occur in these regulations.

Clause 3(g) seeks to simply move the word "metal" as various other materials inclusive of metals are used in the making of conductors badges.

Clause 3(h) replaces the long obsolete fee of 25 cents for the replacement of a lost or defaced conductor's badge, and makes provision for a new fee to be prescribed.

Clause 3(i) and 3(j) are similar in nature to the ones mentioned before in amendment and regulation 21(6), to bring all terms by which officers are named under Act 25 of 1997.

Clause 3(k) seeks to amend regulation 27 in the following manner:

- "(a) to ensure that public service vehicles continue to be inspected annually by the Licensing Authority;
- (b) to provide that other vehicles, that is, privately owned motor vehicles, are inspected via the means of garages and/or facilities so designed under Act 25 of 1997, for that purpose;
- (c) to replace the various terms "automotive licensing officer" and "motor vehicle inspector" with the term "transport officer" as provided for in Act 25 of 1997;
- (d) to empower transport officers under subregulation (6) to call up for examination any motor vehicle or trailer that has undergone an examination on designated premises, in order to personally inspect them;
- (e) to make the proprietor guilty of an offence if it is found by the Transport Commissioner that the examiner and/or proprietor has given a certificate even though at the time of inspection the vehicle was defective;
- (f) prescribing the penalty for the offence under subsection (10).

Clause 3(l) is the centrepiece of these regulations as the provision details the working of the private garage system. Regulation 27A provides for the process by which prospective applicants entering the private garage system may apply to the Licensing Authority in order that their premises be authorized. Forms were developed by the Licensing Authority for this purpose and shall cater for applicants whether they may be individual persons, partnerships or a company.

Regulation 27B provides that the Licensing Authority, once satisfied that all provisions of regulation 27A have been carried out, shall authorize the applicant to carry out the types of inspections on the class or classes of vehicles which the applicant qualifies to inspect. Discretion is given to the Licensing Authority to give written authorization, notwithstanding that all the regulations of 27A is complied with, however, this shall only be at the discretion of the Licensing Authority, and on the Transport Commissioner's satisfaction that the applicant is capable and prepared to conduct the inspection of the vehicles in a fit and proper manner.

Regulation 27C lays down the conditions that all authorized proprietors must comply with, and shall be set out in authorizations. These conditions are as follows:

- (a) The proprietors must carry out examinations in accordance with the terms of their authorizations;
- (b) the proprietors shall ensure that persons carrying out inspections and/or signing certification shall do so upon being first qualified to do so. It is provided that such persons must be qualified to a level accepted by the Licensing Authority through an approved course of technical instruction.
- (c) the proprietors are to provide the Licensing Authority with full lists of all personnel working for them that are authorized to conduct inspections and sign test certificates. This is to be done within seven days of such authorizations;
- (d) the authorizations must be prominently displayed in a conspicuous place within each proprietor's testing station for public view, as well as a list of staff members authorized to conduct inspections and sign test certificates;
- (e) the proprietor shall display a sign outside his premises, the size and dimension of which are set out in the Sixth Schedule;
- (f) the proprietors must make their premises available when the Licensing Authority requires, for the purposes of carrying out further inspections arising out of any appeal made against the refusal of a test certificate;
- (g) the proprietors shall notify the Authority of changes of the business name, partnership or anything affecting the authorization.

Regulation 27D provides for the situation when an authorization is terminated from the point of view of:

- (a) The individual proprietor— his authorization may cease, if he dies, is guilty of a criminal offence, becomes bankrupt, becomes mentally incapacitated or is in breach of the regulations;
- (b) the partnership— the authorization terminates if the partnership is dissolved;
- (c) the company— the authorization terminates if the company winds up, goes into receivership or if it is the subject of some sort of take-over arrangement.

Regulation 27E provides that in the aforementioned situation all unused documentation, test certificates, inspection check lists, monthly return forms, and notice of refusal, as well as all other records, are to be returned to the Licensing Authority.

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This is the procedure, Mr. Speaker, to ensure that the effect of a termination is final, and that unused certificates are not used in a fraudulent manner.

**4.25 p.m.**

Regulation 27F outlines the procedure by which any owner/driver of a motor vehicle makes his application for the examination of his vehicle. Applications may be made to:

- (a) the Transport Commissioner, or
- (b) the proprietor himself.

Proprietors are required to, as far as possible, ensure that appointments for examinations are made for the earliest possible time which it is reasonable and practicable. However, in circumstances where an early examination time cannot be made, it is provided that arrangements can be made between the parties with regard to convenient times for examination.

Notwithstanding and nothing in this Regulation, however, provides that a proprietor or examiner shall conduct inspection of the vehicle types outside of the scope of his authorization.

Regulation 27G sets out limitations and restrictions pertaining to vehicles submitted for examination. These are as follows:

- (a) The driver or owner must have the prerequisite proof of ownership, a certified copy, a driver's permit, and such other proof of ownership that the Licensing Authority shall require.
- (b) The vehicle when presented is so dirty as to make it unreasonably difficult for an examination to be carried out;
- (c) Where it is necessary that part of the examination involves a driving test, if the vehicle is not fit to be driven for any reason, it should not be brought in for inspection;
- (d) Before an examination, all accessories to the vehicle that are not necessary should be removed or secured;
- (e) Where the prescribed fee is payable in advance, if the said fee has not been paid, the proprietor is not obligated to inspect the vehicle.

Mr. Speaker, Regulation 27H deals with the question of damages to motor vehicles which may be sustained in the course of inspections, and where the responsibility lies.

It must be made clear that the persons conducting inspection on behalf of the Licensing Authority are not officers of the Transport Division, nor shall they be precepted as Transport Officers. Subregulation (1) clearly states that the proprietor—or the Licensing Authority, as the case may be—shall have the ultimate responsibility for any loss or damage occurring out of any damage to the vehicle while in their custody.

The same responsibility lies in respect of any damage to personal property or personal injury, fatal or not, arising out of the use of the vehicle in connection with the carrying out of the examination.

In the same vein, no person submitting a vehicle for an examination or having an interest in that vehicle shall be requested or required to accept such responsibility on liability for damage; nor shall they be required to indemnify the proprietor or the Licensing Authority, as the case may be.

Mr. Speaker, upon the completion of the examination of a motor vehicle, Regulation 27I states that the following must occur—

- (a) where the vehicle is roadworthy, i.e. it complies with all statutory requirements, the proprietor shall issue a test certificate;
- (b) where the vehicle is not roadworthy, the proprietor shall issue a notice of the refusal of the tests certificate; and
- (c) issue an inspection check list in the form that is approved by the Licensing Authority. Such check list shall itemize in detail the areas in which the vehicle fails to attain a standard worthy of compliance with the Act and Regulations and must be improved.

The test certificate that is issued by the proprietor shall be in the form approved by the Licensing Authority, and shall contain all the information pertinent to the vehicle: a statement that the vehicle has been found, on inspection, to meet statutory requirements, the date of the issue of the test certificate and its expiry date, and other pertinent information.

Regulation 27J provides for such situations where a braking test—an integral part of the inspection process—cannot be conducted. If the vehicle or accessories belonging to the vehicle are found to be in such a defective state that the carrying out of a brake test may cause or be likely to cause danger to persons or damage to the vehicle or other property, the proprietor shall not provide that test, but shall on the notice of refusal of the test form, state the reasons for not giving the test. In all other areas, however, he shall carry out the inspection according to the Regulations.

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**Mr. Speaker:** At this stage we could take a break. Honourable Members, the sitting is suspended for half-an-hour.

**4.30 p.m.:** *Sitting suspended.*

**5.05 p.m.:** *Sitting resumed.*

**Hon. S. Baksh:** Mr. Speaker, Regulation 27(k) allows applicants who have submitted their vehicles to a vehicle testing station to remove their cars in the following situations:

- (a) Where the examination has not been completed; or
- (b) Where the examination has not been carried out by reasons of the circumstances previously mentioned at Regulation 27(G).

That is, that the applicant or his vehicles has not complied with certain aspects of the Act and/or these regulations in submitting his vehicle.

Mr. Speaker, the Ministry of Works and Transport is aware that persons may well be aggrieved, or suffer monetary loss or damage should their vehicles fail to pass inspection. In that case, if a person feels that he has unjustly become the recipient of a Refusal Notice of a test certificate, Regulation 27 (L) allows him recourse to appeal to the Licensing Authority.

The appellant will provide the authority with notice of the approved format within reasonable time of receipt of that notice, the authority shall arrange to notify the appellant that his car shall be re-examined at a specified place and time. Once the appellant complies with the notice providing the authority with, *inter alia*, a copy of his notice of refusal of test certificate, upon completion of the examination, the officer shall issue the appellant with either a completed test certificate or a notice of refusal stating the grounds thereof and an inspection checklist. Such documents shall, in this instance, be signed on behalf of the Minister by the officer carrying out the appeal examination.

Regulation 27(M) allows the Licensing Authority, on behalf of the Minister, to use any vehicle testing station for carrying out of an appeal, and outlines the fee payable to the proprietor by the Minister in respect of the use of his premises.

Regulation 27(N) makes provision for the fee payable in regard to the inspection. The fees payable are mentioned in sub-regulation (1). The fees are payable in regard of all vehicles with the following exceptions on, or commissions:

- (a) if the application is for an examination to a proprietor or a re-examination to the Licensing Authority, the fee is payable by remittance accompanying the application;

- (b) if the application is made for a vehicle other than a class 1 vehicle or a re-examination of any vehicle, it may be payable either before or after the examination or re-examination, subject to the discretion of the Licensing Authority.
- (c) if the vehicle is deemed not roadworthy or a braking test cannot be carried out, the following options apply:
  - (1) If the vehicle is left at that station to repair the defects, no further examination fee is payable;
  - (2) If the vehicle is moved from the station but brought back within six weeks for further examination, no further examination fee is payable. However, if brought back for further examination of a defective item outside of the six-week period, a \$100.00 fee is payable.

If such vehicle is taken to another testing station, the full fee is payable. Where no examination has occurred the proprietor or, as the case may be, the authority shall be required, in the circumstance, to repay the applicant his fee. Also, if the reexamination of a vehicle occurs on the same day of an examination or the re-examination relates only to the listed requirements of subsection 6(C), no fee is payable.

Regulation 27(O) provides for the fees on appeal on a Notice of Refusal of Test Certificate—which are the same as under Regulation 27(N)—with the additional empowerment of the Minister to repay all or any part of the appeal fee, upon a successful re-examination where it appears to the Authority that there has been substantial grounds for the appeal.

Regulation 27(P) places the onus upon proprietors to make duplicates of all records, tests certificates, refusal notices and checklists in order to ensure that the records of entry with regards to any examination within the last preceding 18 months, shall be available for inspection by officers of the Licensing Authority.

Mr. Speaker, having gone through the private garage aspect of the Amendment Regulations, the remaining clauses deal with other aspects such as traffic signal, terminology and the repeal of certain outdated regulations. Many of the remaining regulations, for example, insert “Transport Officer” in the appropriate places in order to comply with Act 25 of 1997.

In other areas, the definitions of cities and boroughs under the Municipal Corporations Act, No. 21 of 1990 have been similarly placed where appropriate.

I would now like to highlight some of the more important amendments which remain. Clause 3 (o) which amends Regulation 30—this regulation which deals with direction indicators on motor vehicles has been amended in order that it is more reflective of indicators presently used on motor vehicles and trailers, especially with regard to the type of lighting used and the flashing frequency of such lights.

Clause 3 (q) amends Regulation 38, Rule 19, to ensure that traffic stands to the side to accommodate fire service vehicles proceeding to and from a fire or a suspected fire, and also such vehicles that carry sirens in their work; such as the defence force personnel, ambulances, emergency calls and police vehicles on emergency calls.

Clause 3 (r) in its present form, the regulations make no provision for a side mirror to be carried on vehicles, only one reflecting mirror. This amendment makes provision for such vehicles to carry side mirrors, already in common usage.

Clause 3 (x) repeals Regulation 82—fares for taxis, because the system by which fares are payable either by distance travelled or by time of day is no longer in use and has not been in use for a long time.

Clause 3 (ee) amends Regulation 102 by taking into account the newer types of traffic signal systems namely:

- (a) the green arrow signals used to direct traffic or the direction indicated by it with due regard to traffic;
- (b) the red signal/green arrow signal combination which shall be taken to indicate that traffic stops at the stop-sign provided in conjunction with the red signal, with the exception of vehicles proceeding in the green signal's direction;
- (c) the red signal amber/arrow combination which indicates that traffic stops at the signs with the exception of vehicles proceeding in the amber signals direction with extreme caution.
- (d) the flashing red signal which indicates that traffic is to proceed with extreme caution beyond the stop line while giving way to vehicles proceeding across their path in pursuance of a flashing amber signal; and
- (e) a flashing amber signal indicating that vehicles must proceed with extreme caution beyond a stop line on a carriage-way.

**5.15 p.m**



Mr. Speaker, clause 3 (gg) amends regulation 104 by deleting sub-regulation (3) referring to the old “cross” and “don’t cross” signals, and makes provision for WALK” and “DON’T WALK” signals in use.

Mr. Speaker, I wish to emphasize the safety element of the measure and to indicate that private vehicles five years and over will now be afforded greater scrutiny at a level that has never been practised before in Trinidad and Tobago.

Firstly, I wish to point out that it attempts to utilize the resources of the private sector in the provision of the service and to provide an opportunity for upgrading the skill level of the motor vehicle industry.

The two key aspects of the measure are:

- (i) inspection of private vehicles which are five years or older to be undertaken every two years.
- (ii) continuation of the yearly inspection of public service vehicles by the Transport Division.

It is to be noted, that an initial 12 months’ grace period will be provided after the laws have been passed. This will allow persons a period to schedule their inspections without significant difficulties. During the period, additional garages will be established as they conform to the requirements that have been determined by the Transport Commissioner. It is to be noted that the public will not be prosecuted for non-inspection during this initial one year-period. However, in cases where defective vehicles are encountered, prosecution will continue.

During this period, the Transport Division will undertake a public information programme aimed at making the public aware of the different aspects of the new measure.

In addition to the requirement to undertake the inspection of public service vehicles, officers of the Transport Division would be required to undertake a monitoring and supervisory role in respect of the activities of the private testing stations. This will require transport officers to visit sites on a regular basis for on-the-spot inspection to ensure that the system is functioning properly, that is, to ensure compliance with the legislation.

In addition, plans are afoot to establish a Steering Committee involving the Transport Commissioner, Ministry of Consumer Affairs, Town and Country Planning, Police Department and representatives of the Ministry of the Attorney General. This committee will provide the necessary administrative guidance for the operation of the system.

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Mr. Speaker, it is to be noted that in order to promote a geographical spread of testing stations and equity of distribution, 44 testing stations have been identified so far and have been distributed throughout Trinidad and Tobago. They are as follows:

<b>Areas</b>	<b>No. of Testing Stations</b>
<b>North:</b>	
Arima/Dabadie	- 5
Tunapuna	- 2
Diego Martin/Petit Valley	- 2
El Dorado/Tacarigua	- 2
Barataria/San Juan	- 2
Morvant/Laventille	- 2
Maraval	- 1
St. James	- 1
Champ Fleurs	- 1
Sangre Grande	- 2
<b>Central:</b>	
Frederick Settlement	- 1
Freeport	- 1
Cunupia	- 2
<b>South:</b>	
San Fernando	- 5
Princes Town	- 2
Marabella	- 1
Vistabella	- 1
Penal/Debe	- 2
Williamsville	- 2
Santa Flora	- 1
Guapo	- 1

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Point Fortin	-	1
Rousillac	-	1
Fyzabad	-	2
<b>Tobago</b>	-	1, as at this time

Mr. Speaker, the prognosis is that the measure will impact positively on small garage owners. It is expected that the measure will introduce an improved level of stringency in respect of the upkeep of private motor vehicles. The inherent implication is that this will result in increased demand for services at repair garages throughout Trinidad and Tobago. In addition, these repair garages will be required to upgrade the service level where it is below the necessary standard.

Mr. Speaker, to clarify the composition in respect of the \$165 charge for the conduct of the inspection of motor vehicles, the following is to be noted:-

- (a) \$50 represents the prepaid cost for an inspection certificate which goes to central government for every vehicle inspected;
- (b) \$15 represents receipts in respect of value added tax;
- (c) \$100 represents the earnings of the testing station for each vehicle inspected.

Mr. Speaker, a document entitled "responsibilities of a vehicle testing station: proprietor/motor vehicle examiner" has been issued to all potential applicants and is available to all prospective applicants. This document details the day-to-day administrative functioning of the system.

In addition to all the garages already approved by the transport authority, additional garages may continue to apply and forms are available at all offices of the Transport Division. Mr. Speaker, I beg to move.

*Question proposed.*

**5.25 p.m.**

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, the tabling of this Motion before the House today is testimony to the monumental incompetence of the UNC Administration.

Approximately one year ago, with much tra-la-la and fanfare, the UNC Administration announced the inspection of private vehicles. At the time, I wondered how this was possible without amendment to the legislation, and it is

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obvious that the Minister was blissfully unaware of the requirements of the law. They carried about how they would be reforming and improving the system for inspection of vehicles in the country, published magazine and so forth, and 12 months later they are bringing the legislation to the Parliament. Monumental incompetence and inefficiency! [*Desk thumping*]

We are in 1999, and the hard part about all this is that the Minister had at his disposal all the information, all the groundwork, all the tools, all the personnel to lay this before the Parliament not in 1999, but in 1996. It is the joke of the whole thing. What is doubly ironic about this is when it was introduced in the other place, it was so defective that it had to be sent back again. I cannot believe a Minister of Works and Transport not knowing the difference between biennial and biannual.

**Hon. Member:** He is not working.

**Mr. C. Imbert:** For your information Minister, biannual means every six months. That is how it was introduced in the other place. Vehicles would have had to be inspected every six months, and I would caution the Minister to read the legislation, do not assume that what you are getting is appropriate. There are very serious issues here.

When I was holding that office, I was totally in support of this measure. In my opinion, it was long overdue and it is about time we get to this place. So whereas there are some issues with the regulations with which I am not entirely comfortable, the general principle of inspection of private motor vehicles is something that nobody could have any valid argument against. It is an inconvenience yes, it is an imposition, nobody wants to do these things. As human beings we do not wish to subject ourselves to examination, but in this particular case it is necessary.

In England, the Ministry of Transport has had the system for years. I had sent a former transport commissioner to look at what is done in the United States of America. There are different systems for the inspection of vehicles. The eventual forms that the regulations have taken are quite practical, but I want to deal with some issues.

I do not believe that the Government has the capability to administer this new system. We are moving from a situation where approximately 200,000 vehicles, or 205,000, 210,000 whatever it is—if my memory serves me correct—now have to be subjected to inspection. That is not presently the case so we are talking about nearly 20 per cent of the population of Trinidad and Tobago would now be

inconvenienced by this legislation. It is a massive undertaking and I do not believe that the Government has the capability to manage this system.

In addition, there is the question of corruption and this Government talks a lot of corruption but I notice since they have come in we have not made much progress in dealing with corruption with regard to inspection and registration of licensing of motor vehicles. There is much "ole" talk but we are not making any progress and I wonder if it is because the Member for Couva South, in another carnation, has represented persons charged with crime under the Motor Vehicles and Road Traffic Act. I am just wondering if there is some sympathy in the system for persons who breach the motor vehicles regulations.

Mr. Speaker, this Government brought in the foreign-used system just so. At the time we warned them of the dangers of allowing local assembly of foreign-used vehicles but, of course, they have their supporters in the Bamboo so they have to help out their supporters. So they bring in the foreign-used system without any regulations or checks and balances, and the irony is that two years later the Minister is admitting that one of the reasons the Government had to increase the registration fee for foreign-used vehicles is because of money laundering, stolen vehicles, skulduggery in the Licensing Office and so forth. It took two and a half years to realize what we were telling them was a fact. They knew it all the time, but they had political pay offs to make.

I saw the height of irony yesterday where the Minister of Transport in Japan, the Minister's counterpart, they stole his jeep. It comes to Trinidad and these smart local assemblers in the constituency of St. Augustine and Caroni East, stole this vehicle belonging to the Minister of Transport in Japan. It was brought here in pieces and put together. A brand new 1998 land cruiser was brought to Trinidad and passed through the Licensing Office as a 1994 vehicle. They are not even smart about what they do. Take a 1998 model and register it as a 1994 model, and eventually when suspicions were aroused, they realized this vehicle was looking too new to be a 1994 model. It was checked and found out that it has a chassis belonging to a vehicle stolen from the Minister of Transport in Japan. You could not get better than that. What is the Minister doing about that? Has anybody been charged? Somebody registered a vehicle stolen in Japan from a government official, has this hon. Minister done anything about that? That is why I say there seems to be some sympathy on that side for the people involved in this criminal activity.

We are going to export corruption from the Licensing Office into the private garages. That is what we are doing and I would like the Minister to tell me what he

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is going to do about that. For the first time the owner of a private motor vehicle would now have to have his vehicle inspected every two years once it is five years old and what was offensive about the regulations in its previous incarnation was if you failed the inspection you had to bring the vehicle back to the same garage. Who could dream up something like that? So you bring your vehicle to a garage, it fails, you have to bring it back to the same garage and they have to do the repairs. This was on the last occasion. I am not talking about now. It is very, very interesting.

Even in this incarnation before we deal with the amendment, you had to bring your vehicle only to a licensed garage. You could not carry it to your own mechanic and get it repaired. It had to be brought to one of these certified garages to get it repaired. I see some common sense has prevailed at last; after almost four years, some common sense has appeared in that ministry. I note in the amendment the offensive words which indicated that you had to bring it back to either the same garage or another one registered by the ministry have been taken out. So now all one has to do is get it repaired at a garage of your choice, either in that garage, another garage, or your own garage.

It was interfering with one's constitutional rights, Mr. Speaker. We have to wonder where these people dream up these ideas. We are going into a situation where you are driving your private car, you have to get it inspected and passed every two years. You have to go to one of these 44 garages and in a place like Diego Martin which has a population of perhaps 140,000 persons—*[Interruption]* I am not talking about a voting population. You see, Mr. Speaker, ignorance is bliss. The number of voters in Trinidad and Tobago may be 800,000, but the population is 1.3 million. You see, illiteracy is what the Member for Tobago East talks about all the time. A population in Diego Martin of perhaps 140,000 persons; a driving population of maybe 15,000 persons and only two garages to serve a population of over 100,000 persons. If one works out how long it would take to inspect these vehicles we can see the administrative nightmare that this Government is foisting on the population, an administrative nightmare, Mr. Speaker.

This is big money. We are talking about a \$50 million industry. If you have 300,000 vehicles, because it does not discriminate against goods vehicles and private vehicles. Say 300,000 vehicles must now be inspected by these private garages, that is \$152 million and of that \$152 million they are keeping \$30 million. There is a lot of room for corruption. What steps is the Government going to put in place to prevent bribery, and victimization? If a person decides he is going to

give you pressure and he fails the inspection, you have to bring it back, and bring it back, and bring it back. What is the Government going to do about that?

They talk about an appeal process, but if I have a working vehicle and I am being victimized by one of these garages and my vehicle has to be parked up for two months while I appeal to the Licensing Office, how much is the Government going to compensate me? It appears to me that not enough thought has gone into this. I would think we need a minimum number of garages before a system like this is started. I do not think that 44 is adequate. That are many vehicles to garages; 300,000 into 44? What is that? That is 4,000—5,000 vehicles per garage.

**5.40 p.m.**

How can a garage process 4,000 vehicles, and how efficient are those garages? Very good point. I know that friends of the UNC who used to bake sweet bread and plant corn have applied for these garages. People who have absolutely no experience, competence or prior knowledge of repairing vehicles have applied—and if my information is correct, at least, one of them has been registered as a licensed garage. You know, one wonders what are the criteria? How many years' experience a person must have to qualify as one of these 44 garages? Does he have to be in business for one year, one minute, one day? Must he have a UNC party card? I would really like the Minister to tell me in each one of the 44 garages, how many years experience the proprietor has in the inspection, repair and so forth of motor vehicles? Let us know.

Mr. Speaker, what was the system? As I said, exporting corruption out of the Licensing Office, into the hands of private garage owners. It is also the hypocrisy of the UNC—the Minister of Finance came into this Parliament with a set of “gambage” carrying on about the removal of the need for licence fees, no more long lines in the Licensing Office, they are helping the population. When they did it, we signalled three years ago that they would be coming with registration of vehicles. So, they are replacing a licence fee with a registration fee. You see, you all feel that you are smart, but it will catch up with you sooner or later. Instead of paying \$150 licence, one has to pay \$165 inspection—same line up in the garage just as down at the Licensing Office. More inconvenience. Typical “gallery”, “gambage” and dirty tricks of the UNC. [*Desk thumping*]

I wonder if the population knows what is going to hit them. I wonder if they know within the next few months what is going to hit them. If they understand that a new imposition—a new tax is being imposed on them by this UNC Government who came into this Parliament and told us, no new taxes. Is that not what they

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said? No new taxes. The same Minister of Finance—anyhow I would not say anything. What is this, if not a tax? What is this? This is an imposition on the population. [*Desk thumping*]

**Mr. F. Hinds:** That is right.

**Mr. C. Imbert:** It is the general malaise in this Government—take three years to bungle a simple regulation. They do not know the difference between biennial and biannual. It is no wonder, at the present rate of progress, it will take 22 years to finish the Solomon Hochoy Highway—22 years. If one works out the progress on that Solomon Hochoy Highway upgrading and the amount of time it has taken, and measure the amount of road that needs to be done—it will take 22 years to finish the Solomon Hochoy Highway upgrading. [*Interruption*] Me? I will be long gone.

**Hon. R. Maharaj:** Only the good die young.

**Mr. C. Imbert:** Typical incompetence of this administration. You see, I would tell the Attorney General—you know he always used to talk about natural justice and constitutional rights and so on—you know, he is going to get some court action on this. He is going to get some constitutional motions, because when you fail my vehicle, and I return and you fail it again, and you tell me to park it until one of the UNC garages passes it, he is going to get a constitutional motion. Mr. Speaker, through you. I am asking—yes right, like PNM people running URP.

Mr. Speaker, I really would ask the Government to think very seriously about this. I am not really interested if the Minister has information that 44 garages are adequate for Trinidad and Tobago—I do not agree with that. There has to be a critical price. I do not think that it is practical for a garage to inspect 4,000 vehicles in a year or two. I do not think it is practical. They would not be working 365 days in the year. You are talking about 5, 10, 20 vehicles passing through this place every single day. It just appears, to me, to be totally impractical. But, since the Minister is hell-bent on this, one hopes that there will be continuous registration of garages. One hopes that no limit will be put on the number of garages—there is no need for that. If we have 300 or 20,000 garages in Trinidad and Tobago, it does not matter, because it is simply providing a service. One hopes that the 44 lucky people—there must be, at least, another 200 UNC people you could give garages to. One hopes that there is a plan and a policy by the ministry to increase, on a systematic basis, the number of garages that would be available.

Certainly, on behalf of Diego Martin, one garage—you said there are two garages in Petit Valley/Diego Martin, I only know about one. I am not sure if the



other one qualifies in Diego Martin proper, but I will take your word for it. One garage to serve a large population in the greater part of Diego Martin is most certainly not enough.

The other thing I do not understand—at the present time, when one has a goods vehicle and it is taken for inspection it may be issued with a list of defects. It is repaired and one returns—and one may be given another checklist with a smaller number of defects and eventually the vehicle is passed. But additional fees are not paid. I do not understand the concept where \$165 is paid, and if the vehicle is returned to the same garage, one does not have to pay. If taken to another garage, one has to pay. I would expect that it would be easier on the second occasion, to inspect this vehicle. One would assume that the first garage would issue a checklist of defects, and the second garage—as the Licensing Office does at the present time, would simply concentrate on the defects that are being identified. It is not logical and it is an imposition on the population and I am asking the Minister to change this in this regulation. [*Desk thumping*] That if a person has gone to a garage, his vehicle has failed, he has been issued a checklist of defects and he opts to go to another garage because it is convenient, or because there is a long waiting list in the first garage—that the fee be less. Because, it has to be easier—where one inspection might take an hour, the second may take 10 minutes. It is a function of time. It is a function of how many vehicles pass through these garages as it relates to the income that they earn. Right now, there is no charge. Right now, if one goes back to the Licensing Office two and three times with a checklist of defects, the charge is zero.

I do not consider this to be a practical, reasonable or just regulation and I suggest that the fee be cut in half—that it be \$85 or \$90 whatever it is—if it is taken to a garage that is not the same as the original garage. I ask the Minister to consider that very seriously.

**5.50 p.m.**

The Ministers on that side are always crying about not wanting to go back to the Senate, but they have been fooling around with these things for three years. If there are issues here that need correction, then I ask the Minister to take them on board very seriously and go back to the Senate. I am sure he would not get any serious trouble there; they would not give him too much trouble; it is more like a tea party, if you excuse me, Mr. Speaker. I ask him to look at this very, very seriously. I do not see why a person should have to pay \$165, then another \$165.

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Page 23, regulation 27L, the whole question of appeals, deals with the person who has been refused—the refusal of a test certificate. In regulation 27L, there is the usual legal language:

- “(2) As soon as reasonably practicable after the date on which the Licensing Authority receives a notice in accordance with sub-regulation (1) he shall send to the applicant, at his address...
- (a) the place at which the examination for the purposes of the appeal will occur;”

Now, I am of the view that this gives far too much discretion to the Licensing Authority. It could decide six months is reasonable and then it has to be tested in court, again. That is bad law, so I think a reasonable time limit needs to be put in here, which will give the Licensing Authority enough time to deal with these appeals, but it also gives the person some comfort. The UNC garage failed the PNM vehicle. *[Interruption]* Yes, that is what will go on. The UNC garage will fail the vehicle of the PNM man, then the Licensing Authority will be flooded with appeals and it would not be able to deal with them under three or four months. So that we need to put 30 days or something like that.

I suggest in regulation 27L, “as soon as is reasonably practicable”, we put 14 or 30 days. Thirty days might be too long. I would like you to think about 14 days. Put a time limit that limits the Licensing Authority’s discretion, so that it cannot keep a man out there waiting for six months to have his appeal heard, just because it is short-staffed or has other administrative problems.

I would like the Minister to take that on board very, very seriously, because we are talking about 200,000 to 300,000 drivers. It is not a small number of people about which we are talking. We are not talking about reform in legislation that has a marginal effect on society. This is major and fundamental change, so when you are doing that, I submit, be very careful; walk before you run. I think we need to put a time limit in there.

But, coming back to the whole question of corruption, what is this Government really doing about corruption? What is it really doing? What is really going on? What is it doing about the whole question of the foreign used car industry? I need the Minister to clarify for me what is the definition of age of a vehicle? Because, if you have a vehicle which was first assembled in 1990 in Japan, but registered in Trinidad and Tobago in 1999, how old is that vehicle? Is it one year old? Or, is it nine years old?

**Mr. Hinds:** The UNC says one.

**Mr. C. Imbert:** I do not know. So that I need the Minister to clarify for me what is the legal definition of the age of a vehicle. Because, the five-year time-frame must come into play in this situation. If you have a foreign used vehicle which is actually 10 years old, it goes through an initial inspection as all “newly” registered vehicles do, and unless this is clarified, it will not come up for inspection for another five years because it says vehicles five years old and over. So, the vehicle may, in fact, be 10 years old but according to the record, it is only one year old. It needs to be clarified. If that is the intent in the legislation, I have no problem with that. If that is the intent, you need to look at the language very, very carefully.

**Hon. Baksh:** Mr. Speaker, I would clarify that immediately. The age of the vehicle is in respect of the date of manufacture.

**Mr. C. Imbert:** But, you see, Mr. Speaker, all the regulations say is, “where such motor vehicle or motor cycle is five years or more” and it is the use of those words that I want clarified. I would like the legal draftsmen to clarify that when these words are used in this paragraph in this way, they relate to the date of manufacture. We need to look at that very carefully.

Because it brings us back to the whole question of corruption and the vehicle of the Minister of Transport of Japan. Because attempts were obviously made to falsify the records, so there was a vehicle just one-year old being submitted as a five-year old vehicle and, in the foreign used car industry, that is going to be one of the greatest areas of deception. There is tremendous scope among the unscrupulous persons in that industry to falsify the age of the vehicles. Do not laugh. You know there are unscrupulous people. It is true.

As a matter of fact, the Minister of Social Development was in the forefront. He later denied it, but he was in the forefront. He was the one who talked about money laundering in the used car industry at a town meeting. I heard him myself and then he “backed-back” as he is “backing-back” now.

But, Mr. Speaker, these are real problems. There are persons, Trinidadians, in jail in Japan right now.

**Miss Nicholson:** Is that so?

**Mr. C. Imbert:** Yes. Over 25 Trinidadians from one particular—

**Miss Nicholson:** And what are they doing about that?

**Mr. C. Imbert:** Well, I want to know what the UNC is doing about that.

**Mr. Speaker:** Order please.

**Mr. C. Imbert:** In one instance, I understand over 20 employees of a particular importer are in jail in Japan for stealing cars. What they do is they send them abroad; they link up with the stolen car ring in Japan—

**Mr. Hart:** Oh God, ah shame!

**Mr. C. Imbert:**—they steal the cars in Japan; they disassemble them and bring them to Trinidad. This is what the UNC did not understand. It did not understand that the stolen vehicle racket is a multi-billion dollar industry. It is happening all over the world. It crosses borders. In Europe, they steal cars in Germany and export them to France and so forth. It is a serious, serious issue.

When they bring in this new system which requires vehicles to be five years old or more, particular attention must be paid to foreign used vehicles. Because with a locally assembled vehicle of the previous manifestation, where it was assembled in Trinidad and Tobago from new parts, at least there are records of evidence, so the Ford Cortina, the Mazda, the 323, the Commodore, the Gallant and whatever; all the cars that were assembled in Trinidad and Tobago in the heyday of the negative list, at least there is some record of their date of origin, the origin of manufacture and so forth.

Of course, there is corruption there, too. People take license plates off crashed cars; they take a piece of chassis from this one and put it on that one and so forth. There are all sorts of devious things. I talk from personal experience. Under this brilliant UNC administration, a car was stolen from my garage.

**Hon. Member:** You sleep too strong!

**Mr. C. Imbert:** It did not happen under the PNM, but under this brilliant UNC administration, they stole a car from my garage just about 18 months ago. Mr. Speaker, to tell you how—

**Hon. Member:** You missed it!

**Hon. Member:** Did you lock your garage?

**Mr. C. Imbert:** Do you know where this car was found, Mr. Speaker? I live in Maraval. They found the car in Princes Town. *[Laughter]* Maybe the Member knows something. Princes Town, of all places. So, thieves come from Princes Town to my garage in Maraval and “tief” my car. I wonder if it was—anyway, forget that.

**Hon. Member:** He gave them the address.

**Mr. C. Imbert:** He probably gave them the address.

What did they do? They did not repaint the vehicle; they did not change the appearance; they simply changed the number plates. That is all they did. They changed the number plates; they left the car as is and driving all about Princes Town with this vehicle. Fortunately, the police were very, very efficient [*Desk thumping*] and based on my—

No. No. I have already indicated this to the National Security Ministry; I was very pleased with the performance of the police. They were very effective. I wrote the Commissioner, also.

**Mr. Maharaj:** The Cherokee jeep.

**Mr. C. Imbert:** Happily, the vehicle was recovered and we still have it today.

But the whole point is this, if one looks at the number of stolen cars in Trinidad and Tobago today, it is an industry and in the constituencies of Princes Town and Couva, there are stripping fields in the cane.

**Mr. Maharaj:** What about Diego Martin?

**Mr. C. Imbert:** No, we do not have that. In the constituencies of Princes Town and Couva, there are stripping fields. Go down there and you see 10 or 20 shells, where they have stolen the cars. [*Interruption*] Well, it is true. I cannot help that. All kinds of people come from Couva.

But, coming back to the point, the practitioners in this field have become very, very sophisticated. I was reading an article in the *Express*, I believe, about nine months ago—confessions of a convicted car thief. The guy, who had been in prison for stealing cars, was giving an account of his life and explaining that he could get rid of a club lock in 12 seconds; he could get rid of an immobilizer in 18 seconds; he could get rid of a gas lock in one minute; a multi-lock in 10 minutes. He went through the entire thing.

**Hon. Member:** Was he a Trinidadian?

**Mr. C. Imbert:** Yes. He said he could even immobilize Car Search using a device to block the signal. It was all there and I do not doubt him for one minute. These car thieves are very, very sophisticated and even though there are problems at the Licensing Authority, at least there is control.

So that at least in one place there are systems, there are regulations, there are rules, there are procedures. We are now moving out of that controlled environment where there are problems into an uncontrolled environment and, you

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know, what programmes are in place to monitor these garages? Tell us. Tell us what you are going to do to ensure that these new garages comply with the law. Are you going to move in there and inspect their books, for example? Because all of these measures were discussed and looked at over the last seven to eight years. Yes.

**6.05 p.m.**

Must they be registered for tax purposes, you know? Must they be required to have a value on the tax certificate? How often will they be audited? Because you are dealing with an area of potential criminal activity. It is not hops bread you are selling. It is not bodi and baigan. It is a commodity that has commercial value and it can move, okay. So you are dealing with potential criminal activity. So that the systems that have to be put in place have got to be much more rigorous than for a normal commercial operation.

So that, I do not doubt that the Minister has benefited from all of the work that was done in his Ministry, because I know that the staff in that Ministry considered all of these issues. I know that. I know that a lot of work has been done. So that I want the Minister to tell us here today. I think it should be mandatory. It should not be left to the discretion of anybody. This is the kind of improvement of this regulation I am speaking about. There should be mandatory checks on these garages. It should not be a licensing officer just “ketch ah vaps” one day and says he is going down by so and so in Tabaquite and he is going to check. “Nah, nah,

I believe that these garages should be subject to mandatory checks every six months or every nine months or something like that and I think that you need to have penalties, not only for situations where a garage issues a false certificate but where a garage is not in compliance. Now, I know that there are provisions in here. I have seen them. Again you have to look at the constitutionality of this. And I notice the Attorney General is dealing with something else but I would ask him, Mr. Attorney General, to look at clause 27D (5) because this gives the Licensing Authority the right to cancel a proprietor's licence. Now it is an absolute right.

What are the reasons? I do not see any situation here where there is even any principle laid down. I mean, read it:

- “(5) The Licensing Authority may at any time give a proprietor a notice which states—
- (a) that as from a date specified one or more of the authorisations is cancelled.”

But why? Why would you cancel somebody's licence? Is it that you found that person in racket? Is it that you found that he or she issued more than ten bogus certificates in a two-year period? I mean, I would ask the Member for Caroni East, is this a law? Is this just? You are giving the Licensing Authority the right to cancel the licence of a registered garage at any time for no reason. There are no reasons here. So I think you need to look at that. I think you need to indicate where a person is not in compliance with the requirements that allowed him to get a licence in the first place, then the Licensing Authority can cancel it.

And I think again, from the point of view of natural justice, you have to give him notice. You cannot just cancel a man's licence. A man may spend a million dollars, one of "all yuh" UNC people, investing in a garage, buy the latest equipment, hire trained technicians, pass the test set by the Licensing Authority, put up a certificate on the wall or whatever it is, register for VAT, an honest person, and some fellow does not like him because he is not passing a bribe or whatever it is and they cancel the licence the next day for no reason. So I am asking the Minister to look at that.

I think you have to give these people notice. If you are going to cancel somebody's licence, serve notice on that person, and I mean, I would ask the Attorney General to consider that. You are taking away the man's right to earn income. Again, you are going to get a constitutional challenge because if I have invested a million dollars in a garage but you have the right to come next morning, no reason, my licence is gone, I am going to take you to court on my right to the enjoyment of my property, you know. I am not saying I will be successful.

It says that:

“(5) The Licensing Authority may at any time give to a proprietor notice which states—

that as from a date specified in the notice such one or more of the authorisations is cancelled.”

But what is the reason? It does not give reasons. [*Interruption*]

No, but, you know, I do not like implications, okay, because when you bring legislation like this which is new—remember this is something, Mr. Speaker, that is being introduced in Trinidad and Tobago for the first time. So that, I think you need to look at it. [*Interruption*] Yes, well, Mr. Speaker, you know, the kind of replies I am getting across the floor tells me that there is a certain inflexibility on the Government side because it cannot be correct to have absolute authority to

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cancel a man's licence just so, no reason. I mean, what redress does the man have?  
[*Interruption*]

No, no, no, no. I know you could go to court and file for judicial review, you know, ask the court to quash it but why should we have to do that? [*Interruption*] Well, whatever. We should have procedures, Mr. Speaker. There should be procedures. In the same way that it states that the authorization terminates if the person dies, if he commits a criminal offence, if he is adjudged bankrupt, if he becomes mentally incapacitated, the partnership is dissolved, a winding up order is made, resolution for voluntary winding up is passed, and so forth, there have got to be reasons why the Licensing Authority will want to cancel somebody's licence.

And suppose one of the 44 is a PNM? By some mistake there is one PNM garage in the 44—[*Interruption*] He comes in the office wearing a UNC jersey but he was really a PNM so you give him a licence. [*Interruption*] No, I said, one of the applicants, realizing that there would be victimization decided to pretend that he is a UNC supporter, so they gave him a licence, but he is really a PNM and they find out after—

**Mr. Speaker:** Hon. Members, the speaking time of the Member for Diego Martin East has expired.

*Motion made,* That the hon. Member's speaking time be extended by 30 minutes. [*Mr. M. Joseph*]

*Question put and agreed to.*

**Mr. C. Imbert:** Yes, Mr. Speaker, as I said, in the event that one of these 44 UNC garages is really owned by a PNM person and it is discovered by this vindictive administration, the next day the licensing man comes down the road and says, "Your licence is revoked," what redress does the person have? What redress does the person have, Mr. Speaker?

Imagine there is a piece of legislation where a person can appeal lengthy, lengthy clauses, all sorts of detailed conditions where a person can appeal against the refusal of a test certificate. It is half-baked legislation. You could appeal against the refusal of a test certificate, you go to the Licensing Office, there are procedures, all sorts of checks and balances but you cannot deal with revocation of the registration of a garage. There is nothing in there for that. So I have a garage and I cannot appeal against the revocation of my licence.

So I really would ask the Attorney General to look at that and not dismiss it with his usual arrogance because it is a typical strategy of the other side. When



salient points are raised they are too embarrassed, Mr. Speaker, and they do not want to recognize that these are valid points. So they just railroad defective legislation through the Parliament.

You see, I do not want the Government to lose sight of the fact that I am supportive of the principle behind this legislation. I am supportive of it. I am the one who, in the 1993 to 1995 period, had instructed persons in the Ministry to do the work on this matter. I brought the note to Cabinet for the original Cabinet approval, so I do not want the Government to lose sight of the fact that I was heavily involved in this matter. And, therefore, it goes without saying that I will support any rational, objective and just system of inspection of private vehicles. Because the number of accidents that we see today, Mr. Speaker, with cars split in two, you go down the highway you see an old jalopy with no lights, the fender is hanging off, it has smooth tyres, but because it is a private vehicle it does not have to be inspected and the Licensing Authority only has, you know, that many resources.

There is only a fixed number of licensing officers. I mean, yes, there could be increases in staff and so on but the Licensing Office does not have the staff and the physical infrastructure to inspect 200,000 private vehicles. So that if we want to make sure that private vehicles are roadworthy, which is something that I totally endorse and support and have been pushing for, then we need to put checks and balances in place, Mr. Speaker.

And, you know, I need to ask the Minister too, in the pilot programme that we had in mind, we were going for vehicles over 10 years old. If he looks at the Cabinet submission, the Cabinet decisions and so on, the Cabinet of that administration, my administration, recognizing that this is something new and this is something that the population will have to adjust to and there is going to be some chaos initially, we were starting with 10 years for the first two years and then we would have eased it down to seven years, five years and so on. Because the intention was that all vehicles eventually should be subjected to inspection.

This is how it is in other countries. If a vehicle is new it passes inspection. In the next year or two or whatever, it is inspected again. There is no assumption in the metropolitan countries that a vehicle will remain roadworthy for five, ten years. They inspect them at regular intervals and one would expect that this is our ultimate objective. But I ask the Minister, why did he reduce it from ten to five? In terms of numbers, vehicles 10 years and older would have been much more manageable. Start with ten, once you get all the kinks out of the system, bring it down to five and this is a serious recommendation I am making. It is not a big deal.

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All you are going to do, you do not have to take my suggestion, you could say seven, but I believe by picking five that you have introduced a logistical problem that is too massive to handle as a new programme. So I am seriously recommending that the Minister look at the age of the initial programme and he can always come back here in a year or two, 18 months or whatever, and change it from eight years to five years or whatever. And I am suggesting to him, and again that is not a big deal, change it from five to ten, go back in the other place and take five minutes and that is that. So that I would like the Minister to think about that very, very seriously.

What it will do, is reduce the number of vehicles that fall within the net, and allow the programme some breathing space, and some time to iron out the kinks.

**6.20 p.m.**

Now, Mr. Speaker, these are the main points that I wish to make. Let me repeat them, for clarity. I would ask the Minister to look very carefully at the definition of the age of the vehicle. If in fact, the form of words in clause 27(1) where it talks about five years old, is the correct form of words, fine. While we are on that, I am suggesting a change from 5 to 10, and that that be the initial programme. So, it reduces the load on the system.

In addition, I am asking with regard to the clauses that deal with appeals, which is clause 27(1), that a time period be put into 27(L)(2) rather than "As soon as reasonably practicable"; within 30 days, within 14 days, or something like that. Put a time period in. Do not leave it up to the discretion of the Licensing Authority.

I am also asking that in the clause where the Authority has the power to cancel the registration of an approved garage, that there be provisions which allow the person to seek redress. You give the person notice and, you know, a person should get a warning first, and have opportunity to clean up his act. Again, if I invested \$1m. in a garage and you just cancel my licence like that, you are taking money out of my pocket. It is far better for me to get a warning notice from the Licensing Authority indicating to me that I am not in compliance, and giving me 14 days, or whatever it is, to repair the defects.

I would ask the Minister to insert such a clause, rather than just give this *carte blanche* authority to the Licensing Authority where they can just cancel the licence.

I think there should be a warning notice first, and then the Authority has the right to cancel the registration. I think also, that a reason should be given. When

you cancel the notice, give the person reasons; so that the person would be able to repair, correct whatever omissions, whatever problems there are in his garage, and then reapply for registration. I do not think it is fair to do it in the way suggested and I do not think it is practical, and I do not think it is constitutional, Mr. Speaker.

I am asking the Minister to consider these things very seriously. I think that we can—if the UNC, as I said instead of being arrogant, considers what I have said—improve the regulations to the extent where they will actually be an improvement in the Road Transport Legislation in Trinidad and Tobago.

Finally Mr. Speaker, I would ask the Minister to introduce provisions in these Regulations for mandatory biannual—not biennial—inspection of these garages or some other appropriate period. I think one year is too long—bi-annual, not biennial; every six months.

I am asking the Government please do not be arrogant. The Regulations have taken a long time to get here. You have been incompetent. I am asking you now to demonstrate some maturity.

I thank you, Mr. Speaker.

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, I am going to be rather short. I am concerned that we are bringing legislation to inspect vehicles over five years old; and, I wonder whether the Government has really considered all the implications of that.

My colleague, the Member for Diego Martin East made the point, that when we looked at it at the beginning, we thought that the appropriate cutoff point was for vehicles 10 years and older. Of course, he has argued the case with respect to the number of vehicles which would qualify for inspection if you are talking about vehicles five years and older.

Mr. Speaker, there are other considerations. I think, one of the consequences that will flow from this, is that persons like me, for example, I can tell you if I have to go through the hassle of having vehicles inspected, I would never own a vehicle that is five years old. I would not. I think there are a number of persons of like mind. Simply, I do not want to have to go through that hassle. What that means, Mr. Speaker, one has to consider first of all the public servant who qualifies for a six-year loan from the Government; so that, in the final year of that loan, that vehicle will have to be inspected.

But, that is not the only consequence because if we do that, obviously, the market value of the vehicle that is five years old then depreciates. More than that,

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Mr. Speaker, if my argument is correct, by this legislation, we are in fact creating an increased demand for vehicles' and we do not make motor vehicles in Trinidad.

I would want to suggest to the Government, that they take the counsel offered by my colleague and start this programme at the 10-year point. [*Desk thumping*]

Mr. Speaker, we live in Trinidad and we know that vehicles between 5 and 10 years are roadworthy. Unlike the metropol Mr. Speaker, given the size of the country, the motor vehicle depreciates so much quicker; and one can understand the need for, perhaps, annual inspection of these motor vehicles. If one is living, for example, in Canada—first of all, the change in the climate affects the vehicle and then of course summer, after being in-house all winter, obviously one wants to go down to the United States and so on. So that such a vehicle depreciates much more quickly than in Trinidad.

I think, that we are courting all types of problems if we maintain that five-year cut off. I suggest to the Minister that he looks once more and uses a 10-year cut off to start this programme, and let us see how it operates for some time.

Mr. Speaker, looking at the regulations also, I notice that there is an absence of the criteria that one has to satisfy to be a licensed garage.

Looking at the regulations it simply says that every application "shall be made on a form approved by the Licensing Authority". I have not seen anywhere here, the criteria that the garage or the proprietor ought to meet, to qualify. Should he be a trained mechanic for "X" number of years? What are the criteria? Is it really whether or not he supports a political party? Or is it competence to perform the job? Mr. Speaker, I think the regulations ought to spell out those criteria.

### **6.30 p.m.**

Those are the two issues that I wanted to add to my colleague's contribution. Thank you.

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I merely join this debate to deal with some of the points that relate to the legal aspects. The impression given by the hon. Member for Diego Martin East was that these regulations are not worth the paper they are written on, in that— [*Interruption*] I said the impression given by the hon. Member for Diego Martin was that these regulations were not worth the paper they were written on.

These regulations were not rushed, a lot of work went into them. Although the hon. Member stated that this was a policy that the last administration wanted to implement, the fact of the matter is, they did not do it. Before this had to be done,

the Ministry of Works and Transport had to look at other places in the world which had to do this, and no regulations were available.

**Mr. Imbert:** "Doh" try that!

**Hon. R. L. Maharaj:** Regulations of the United Kingdom and other parts of the world had been sent for and obtained, and that is why these matters took some time. Those of us who know about law and regulations know that in drafting these regulations and in drafting law one looks for precedent in order to get assistance. There seems to be the feeling on the other side that if you take law regulations in legal matters from other countries, you are, in effect, copying, and that is wrong. But law—[*Interruption*]

**Mr. Valley:** Mr. Speaker, I simply want to inform the Attorney General that we are aware of this, but what we are complaining about is when you take stuff from other countries, you copy the whole thing and then you copyright it as your own. I think that is wrong, and I think the Attorney General knows that.

**Hon. R. L. Maharaj:** Mr. Speaker, that shows the ignorance of the hon. Member for Diego Martin Central. As a matter of fact, all countries, even Trinidad and Tobago, take law and follow the precedent. They take law and amend it and use it as their own. [*Crosstalk*] But you know what this shows, it shows that they do not have anything to think about. If it reaches that stage, the Opposition does not have anything to think about.

The ignorance of the other side is also reflected in the contribution made by the hon. Member for Diego Martin Central. He was not truthful to the Parliament because he gave the impression that regulation 27D did not provide the rules for natural justice and it was unfair. He spent a long time making allegations that a writ would be filed, motions would be filed and this would be filed; all kinds of things. He spent 45 of those minutes on regulation 27. Mr. Speaker, let me show—I will come to (1)—let me demonstrate.

He talked about the fact that the Licensing Authority can cancel at any time. Regulation 27D(5) states:

- "(5) The Licensing Authority may at any time give to a proprietor a notice which states—
  - (a) that as from a date specified in the notice such one or more of the authorisations of the proprietor as are specified in the notice shall, unless the notice is cancelled before that date, cease;

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- (b) in a case where the date on which the authorisation or authorisations shall cease is less than twenty-eight days from the date of the notice, that the Licensing Authority considers it necessary that the notice shall have early effect; and..."

But he did not read this part—

- (c) that within fourteen days from the date of the notice the proprietor, or any person acting on his behalf, may make to the Licensing Authority, at any address specified in the notice, written representations to the effect that any authorisation to which that notice relates should not cease or should be restored."

Remember he was talking about the rules of natural justice, that he wanted it specified and that it has to be in the regulations. He got up here and read this to the Parliament. He was saying that this did not have the rules of natural justice, and he said so expressly. What is glaring is that he referred to (a) and (b), but he left out (c). Here it is that you have the rules and regulations expressly stating that when a notice is served the person on whom the notice is served would have an opportunity to make representation before a decision is made.

Mr. Speaker, 27D specifies on what conditions there would be the termination of the authorisation:

- "(a) dies;
- (b) commits a criminal offence;
- (c) is adjudged bankrupt; or
- (d) becomes mentally incapacitated."

And if there was an amendment found to be in breach of anything under the Act. Here you have specific instances and the rules of natural justice, and the hon. Member for Diego Martin Central is talking about it is not there. [*Interruption*] I mean the Member Diego Martin East, I would not insult you, I am sorry.

Regarding 27L, the hon. Member for Diego Martin East said that the fact there is an appeal procedure, but that under 27L(2) it states:

- "As soon as reasonably practicable after the date on which the Licensing Authority receives a notice in accordance with subregulation (1) he shall send to the applicant, at his address given on the said notice, a notice stating—
- (a) the place at which the examination for the purposes of the appeal will occur; and

(b) the time at which that examination will start."

The point the hon. Member for Diego Martin Central made was that it should not be "as soon as reasonably practicable", but there should be a particular time-frame. We have examined this and we think that "as soon as reasonably practicable" would cover the situation. In any event, "as soon as reasonably practicable" means "as soon as possible", and we do not see any reason for putting a particular time-frame.

If someone feels that the time is not reasonable in all the circumstances, because there may be a case in which it should be done in one or two days, and you may have one to be done in 10 days. If one considers that in all the circumstances of the particular case it should not take so long, it would give the person the option to be able to take whatever steps he considers necessary.

Our submission in this matter is that it has not been shown that any of these regulations offend the rules of natural justice. On the contrary, the rules of natural justice have been expressly provided for and it is not unusual, for example, for suspension of an office to take place, and you have the rules of natural justice not expressly specified, because there is the elementary principle of law. If one looks at the Police Service Act one would see that where the Police Service Commission has the power to suspend, it does not have to say suspend after a hearing. The law is implied that as long as the person's rights and interests are to be protected, then obviously, whether it is written or oral representation depending on the circumstances, the decision-maker must act fairly. If one has to put the rules of natural justice all the time when one is drafting legislation, one would not have enough in order to draft that, because that is implied. In this particular case we expressly stated it.

Mr. Speaker, they would remember the case, which under their administration, they suspended police officer Rodwell Murray. He had said why he was suspended, I do not want to go into that. In that case the court reaffirmed the principle in Trinidad and Tobago, that in legislation you do not have to specify that the person is given that right depending on all the circumstances of the case.

Thank you.

**Mr. Fitzgerald Hinds** (*Laventille East/Morvant*): Thank you kindly, Mr. Speaker. Like the Attorney General, I did not plan to enter into this debate, but he raised a number of legal issues, as he put it, arising out of matters raised by the Member for Diego Martin East.

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The Member for Diego Martin East, as I understood him, was suggesting that regulation 21B does not provide an adequate remedy to the person affected by the decision to terminate the authorisation. [*Interruption*] 27D(5), I am sorry. The Attorney General attempted to suggest that in respect of 27D(5), now (5)(c), that the wording of this regulation and I quote:

"that within fourteen days from the date of the notice the proprietor, or any person acting on his behalf, may make to the Licensing Authority, at any address specified in the notice, written representations to the effect that any authorisation to which that notice relates should not cease or should be restored."

It ends there. The Attorney General is attempting to suggest to this honourable Chamber that this is a manifestation of natural justice. I submit that it cannot be, it is not! [*Desk thumping*] The principles of natural justice are well known, and they ought to be known by the Attorney General.

It is two-fold in its nature. In fact, let me start with the rule of law— [*Interruption*]

**Hon. Member:** Give him a lecture.

**Mr. F. Hinds:** "No man is above the law", Diceyan Principles and, "every man is equal before the law". That is the twin concept in the Diceyan principle of the rule of law. In respect of natural justice—and he misread the authority as was expressed in the case of Rodwell Murray and all the cases of judicial review. What the court was simply saying and have always said— [*Interruption*] I can tell him— this is an inherent jurisdiction of the superior court to overlook and supervise the decisions of any lower court. That is the position. So it is not that, as he tried to explain the Rodwell Murray case, every statute implies natural justice. That is not the principle, and I am categorical about this.

This is the same Attorney General who had the temerity, the brass face, to say that six legal luminaries in this country, misread a simple Bill. [*Interruption*] Everybody does not know, except the Attorney General. He spoke a while ago in response to the Member for Diego Martin Central—I will come back to this—that we had to go to America and England to get precedents of their legislation. That might be so because the former Minister of Works and Transport tells us that during his tenure he dispatched officers. The Transport Commissioner, in fact, went to the United States, met with his counterparts there, and looked at their regulations in respect of this. Everybody understands that if this is something new we can look to other jurisdictions for some guidance.



But this is the very Attorney General who went to South Africa, saw a document on the South African Constitution, came to Trinidad and reprinted it word perfect, distributing it in every national newspaper one Sunday, and had put at the back of it that it was copyrighted by the Ministry of Attorney General. When I saw the document from South Africa, it was identical, word perfect, that is plagiarism to the highest! *[Interruption]*

#### 6.45 p.m

Let me come back to the Regulations now. From a moral and ethical standpoint that is not a problem with the Attorney General, but for ordinary citizens it is. *[Interruption]*. Let us not become personal; let us maintain the high standards that we ought to in this Parliament and in this country, because if I become personal you may find it embarrassing. Let me continue, Mr. Speaker; let us leave the personalities out. I will address the Attorney General in his capacity as Attorney General, and as the Member for Couva South. I will forget the Ramesh Maharaj, otherwise it would be very embarrassing.

Regulation 27D(5) (c)—*[Interruption]* Would you please allow me to continue? This does not in itself manifest any principle of natural justice. At best it is incomplete, because natural justice implies: A man must not be a judge in his own court. In other words, the prosecutor must not also be the trier of the case—put in simple language. Also, there are principles of natural justice which would highlight that a man must be given the right to be heard. I cannot remember the Latin for it, *audi alterem partem*—something like that. The law books are replete with cases that show different manifestations of that. There is one case that tells us he does not have to be heard, because if a forum is available for him to be heard and he did not allow himself to be heard, he cannot later argue that he did not have the right to be heard. The law says he must be given a right to be heard, but actually being heard is a matter for him: he could walk away from the tribunal.

If a man makes representation, as (c) says, in writing and he forwards it to the particular Licensing Office, he does not know what happens to it, or if anybody adjudicates upon it, he does not know. In the meanwhile he would have lost his authorization; his garage is now shut; what is his position?

While the Attorney General sounds as though—it might very well be intentional and a pretence, because this Government has now developed the habit of pretending to people that they are getting certain things when in fact they are not getting them. This Government tells you about Freedom of Information when in fact it is curtailing press freedom in the country. *[Desk thumping]* This

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Government talks about accountability and transparency, but what they really want to do is to get at the President and fire certain judicial officers.

**Mr. Speaker:** Is the Member still on the point?

**Mr. F. Hinds:** Absolutely, Mr. Speaker.

**Mr. Speaker:** I have my doubts about that.

**Mr. F. Hinds:** I shall prove to you I am, Mr. Speaker, with great humility.

**Mr. Speaker:** I will give you that opportunity.

**Mr. Hinds:** I am obliged, Mr. Speaker.

I submit in agreement with my friend from Diego Martin East, that this does not manifest natural justice and, therefore, it is woefully inadequate, and I agree with Members on this side that the Attorney General on this one is palpably wrong. He went as far as to say that it is expressly stated. What does the word “expressly” mean? To the average reasonable man—not on the platform of the omnibus, but on the maxi-taxi on the Eastern Main Road—“expressly” means: when you read it you could see it. What is expressed about this? *[Interruption]* Mr. Attorney General, we must do better than that. He must be speaking about the *Express newspaper* he wants to close down.

Let us proceed to the question of Regulation 27 L (2), it says:

“As soon as reasonably practicable after the date on which the Licensing Authority receives a notice in accordance with sub-regulation (1) he shall send to the applicant, at his address given on the said notice, a notice stating—

- (a) the place at which the examination for the purposes of the appeal will occur; and
- (b) the time at which that examination will start.”

The words that are challenged here by the Member for Diego Martin East, is the construction “reasonably practicable”. All the Member for Diego Martin East was wisely and properly suggesting to this stiff-necked Government was that they should have been more specific in this regulation with regard to the amount of time, because it has to take into account income, family lives and business arrangements which are at stake.

“Reasonably practicable”—the concept of reasonableness is an objective concept that a court, or the person who is implementing the measures will decide. The person at the Licensing Authority, in this particular case, or at the garage would form a view that a certain period of time is reasonable, because for the last

two months they may have had “work to rule” at the Licensing Authority. A number of persons may have drunk contaminated water and were unable to go to work; the Minister of Works may not have performed creditably in his road-paving arrangements as he has done on the highway, and people are unable to get to work on time; or the maxi-taxis may have decided to strike because of bad roads all over the country and the workers at the Licensing Authority were unable to get to work. The Transport Commissioner, in light of those circumstances would find one month or six weeks quite reasonable by way of giving relief to the man, by indicating to him where the examination must be and at what time it would start. All the Transport Commissioner would be seeing is his circumstances; while he looks at it subjectively, it would take a court to look at it objectively. The court would not only take into consideration what the Transport Commissioner experiences, but would also take into account what the affected persons would be experiencing. Therefore, the Transport Commissioner may think six weeks is reasonable and the court may very well find that two weeks ought to be reasonable in the circumstances.

It is for that reason that the Member wisely suggested a specific time-frame, because people’s income and livelihood are at stake, but the Attorney General went on and on and was very critical of the Member for Diego Martin East. Another manifestation of their stiff-neckedness.

There is one other point I must make in closing, Mr. Speaker. The Attorney General ought to know that the remedy of judicial review, as inherent as the court’s jurisdiction, would be to look into these matters. Notwithstanding whether you have ouster clauses, or omnibus clauses, and things that us lawyers would know, the Attorney General ought to know that you would approach the court for judicial review when you have utilized the other remedies that are available to you. So, he quite flippantly told the Member: “If the person—I could never use the Attorney General’s words—I always try to speak better than that. He said in essence, if the individual found that the Transport Commissioner’s time-frame was not reasonably practicable and not reasonable, then the individual could take whatever measures he wants. What did the Attorney General mean by that? We have heard those words from that Attorney General in here before.

There were occasions in here, Mr. Speaker, when we said that Bills required a special majority in accordance with the constitutional dictates of our country, and the Attorney General said: “We do not have any time to study you and that, if you do not like, it lump it, and take it to the constitutional court”. He had said so in here before, to this Parliament, to this Opposition. Now, he is telling the Member

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for Diego Martin East, for example, if the affected person finds that the time is bad, and not reasonable, then that person could take whatever course. In other words, let the little man go to court; let him pay a lawyer—like some we know of—a big fee. All the time and costs that would be involved in that, when we could quite simply implement a measure here to make life more palatable and make things better for the people who would be affected by these regulations.

Mr. Speaker, first of all, if this legislation says something—as I have already said that it is an inherent jurisdiction of the court to oversee the operations and to review the decisions of inferior courts—a man approaching the court would have to satisfy the court that he exhausted his other legal remedies, and in these circumstances, he would not be able to.

I have indicated that I never intended to speak on this Bill, and I only rose to address the two legal issues that the Attorney General sought to raise. I hope now that he has had the benefit of another legal view—I do not want to pat myself on the shoulder like the Member for Tobago East—but I would suffice it to say, now that he has had the benefit of another legal view, I would suggest that he takes it seriously into account and come with better proposals in respect of these regulations.

Mr. Speaker, I wish to thank you.

**6.55 p.m.**

**Mr. Barendra Sinanan** (*San Fernando West*): Mr. Speaker, like my colleague, I did not intend to participate in this debate. I was trying to catch the eyes of the Attorney General, unsuccessfully.

I wish to refer the hon. Minister and the Attorney General to Regulation 27D (3), which says:

“An authorization of a company, as a proprietor terminates if in relation to the company—

- (a) a winding-up order is made;
- (b) a resolution for voluntary winding-up is passed;
- (c) a receiver or manager of the body’s undertaking is appointed; or
- (d) the taking of possession, by or on behalf of the holders of any debenture secured by a floating charge, or of any property of the body comprised in or subject to the charge occurs.”

Now, the Attorney General would know that there are situations where companies have voluntary winding-up for purposes of amalgamation or

reconstruction. So, is it that if a company is winding up for purposes of amalgamation or reconstruction, you are saying here that the authorization terminates? This, to me, is unfair, because a common practice in commerce, in business where you have companies that could wind up for amalgamation or reconstruction—you can take any examples you wish. You may have, for example, in the Neal and Massy Group, you have Neal and Massy Motors, you have MEL's Automotive; they have common shareholders—one is a subsidiary of the other. Assuming one of them decides it is going to wind up, MEL's is going to wind up to amalgamate into Neal and Massy, what you are saying here is that the authorization to MEL's is cancelled. Now, this cannot be right. Normal company law permits a winding-up for purposes of reconstruction and amalgamation.

If you look at (c) and (d), Mr. Minister and Hon. Attorney General, likewise, a banker calls in a receiver, two things can happen: one is that the receiver can go in and dispose of the assets of the company and recover a difference owed to the bank, and that is the end of the matter. But very often you may find a receiver going in—take (d) for example, to take possession of, and to manage the affairs of the company—and because of his expertise in managing the company, he is able to repay and recoup the debt owed to the bank, and then files his accounts and hands back the company to its directors. So, why in a case like this, are you saying that the authorization shall cease? It will cease if the company is totally wound up and goes out of business. I am sure the Member for Caroni East, a prominent lawyer prior to his advent into this Parliament, would agree with me. So, Mr. Attorney General, I am asking you to look carefully at Regulation 27D (3).

I take this opportunity to indicate to my hon. Friend from Tabaquite that even he might agree with me also, because I see him listed in the yellow pages as an attorney-at-law. [*Laughter*] So even the Member for Tabaquite, to whom this may be trifle, would agree.

So, Mr. Attorney General, with these few words, I ask you kindly to give this Regulation 27D (3) some consideration in light of the comments that I have made.

I thank you very much, Mr. Speaker. [*Desk thumping*]

**The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh):** Mr. Speaker, a number of points raised by Members on the other side, especially the Member for Diego Martin East and also the Member for San Fernando West, need some clarification.

I must say that it is a fact that the present Motion before this House, indeed, had its genesis long before the Member for Diego Martin East. It did proceed

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under his administration, and I did take it up from there; and it is overdue—have no doubt about that. But in giving some of the explanations in terms of the guidelines for the establishment of a vehicle testing station. The proprietor shall be issued with a designation instrument duly signed and dated by the Transport Commissioner authorizing and identifying the premises that are to be used as a vehicle testing station. And a proprietor shall, among other things, submit the names of any or all of his employees possessing technical qualification, skills and experience both as an auto-mechanic and an assessor; and be assessed by the Transport Commissioner for selection. Such persons must, in addition, attend prescribed training and orientation courses developed for persons wishing to perform the duties of an examiner.

**Mr. Imbert:** I thank the hon. Minister for giving way.

I just want to expand on the point my colleague from Diego Martin Central made. There should be published some criteria on how one qualifies.

**Hon. S. Baksh:** Mr. Speaker, this was published and is available at the Transport Division; it names the responsibilities of a vehicle testing station proprietor or motor vehicle examiner, and it must go along with the application form.

Yes, it is also stated here: Such persons must attend the prescribed training orientation course developed for persons wishing to perform the duties of an examiner. Persons not possessing the full qualification, but who have also submitted proof of a combination of qualifications and working experience of at least 10 years as an auto-mechanic from a recognized, established company, would be subjected to an examination prepared and approved by the Transport Division for determining their suitability for certification to perform duties as motor vehicles examiners.

In addition, they must ensure that all persons wishing to be considered for the position of examiner are of good character by submitting a certificate of character to the Transport Division, and are the holders of a valid Trinidad and Tobago driving permit that qualifies them to operate a class 3 vehicle.

They must notify the Transport Division of any changes in their motor vehicle examining staff, clearly stating the reasons for such change especially where it involves breaches of the rules that govern the inspection programme.

They must also ensure that assistance is always available to the examiner in the performance of his or her duties. They must also ensure that:

- (a) suitable accommodation for customers and staff is provided and kept in a tidy condition or in a good state of repair.

You have a complete Appendix 2, which details the type of accommodation.

- (b) customers are able to witness their inspection check from a safe and comfortable position.

**7.05 p.m.**

They must have in good working order all equipment as listed in Appendix 2. In Appendix 2 there is all the equipment necessary for carrying out all the tests to ensure the type of engineering standards if necessary.

**Mr. K. Valley:** Mr. Speaker, if you may both give way, much obliged. I think that is what I was asking for. But do you think that should be attached to the regulations that you are seeking to affirm here.

**Mr. R. Maharaj:** Administrative matters.

**Mr. K. Valley:** For completeness, should it not be attached if those are the criteria for the proprietor?

**Sen. Hon. S. Baksh:** Mr. Speaker, in fact, those are some of the criteria and these are some of the quality assurance standards embedded in the entire system that, in fact, when not complied with, will end up in a withdrawal of authorization and as I go along, we have received all the details of the specifics including the total quality management systems implemented to ensure the type of quality assurance in terms of frequency of checks of equipment; frequency of calibration of equipment. We have a number of those matters and they are specified quite clearly as the terms and conditions for being able to maintain a compound and to be able to continue as a proprietor and a motor vehicle examiner.

Mr. Speaker, in fact, we do have a comprehensive guideline for proprietors and examiners and as we go on you will see that withdrawal for authorization, is in fact, a comprehensive list of details. *[Interruption]*

**Mr. K. Valley:** Mr. Minister, that is not the question I asked. I think it is fine. All I am asking is to let us have it as an appendix to the regulations.

**Sen. Hon. S. Baksh:** Mr. Speaker, I will give a listing of all the matters; I am trying to answer all the questions raised. I am sure that before I finish my submission I will deal with some of those issues, and I have noted some of the issues that need further clarification and I will deal with them appropriately.

Mr. Speaker, in terms of withdrawal of authorization, the Transport Commissioner has complete discretion to withdraw authorization for the

functioning of a testing station or the certification of an examiner. This will usually be at a minimum of 15 days' notice. The withdrawal of authorization would normally occur when there has been a serious breach of the terms of authorization. A conviction or a deliberately false statement on an application for authorization can lead to such withdrawal. The proprietor whose authorization is, or may be, withdrawn can make representation against the decision to a committee to be appointed for this purpose. This should be made in writing within 30 days of the date of the withdrawal notice.

The Transport Commissioner will withdraw the authorization of a proprietor for a single act whether committed by the proprietor or the examiner in the following circumstances, for example:-

- (a) Improper or fraudulent issue of a certificate of inspection involving some act of dishonesty.
- (b) Where an examiner accepts an inducement for issuing such certificates, or issues a certificate without examining the vehicle.
- (c) Where inspection checks are carried out by unauthorized persons.
- (d) Where checks are carried out on classes of vehicles for which the examiner is not authorized.
- (e) Improper use of a certificate of inspection to promote a sale of a vehicle.
- (f) Backdating a certificate of inspection.
- (g) Deliberate failure to report any loss or theft of certificate of inspection to both the Transport Division and the police.

The Transport Commissioner would also withdraw authorization for a single event on conviction of the authorized proprietor or of a partner or director of an authorized proprietor's company, whether or not the conviction arises from his or her activities in that firm or company.

For any criminal offence in circumstances likely to damage the reputation of the testing station or the integrity of the programme, the following may also result in withdrawal of authorization:-

- (a) Conviction of a nominated certified examiner for a criminal offence.
- (b) Negligence by an authorized proprietor or an employee resulting in the theft of certificates of inspection.
- (c) Failure by the authorized proprietor to notify the Transport Commissioner of any conviction of a certified examiner.



- (d) Shortcomings in respect of the requirements requiring documentation, only if there is evidence of a continued failure to comply with the requirements and if the authorized proprietor has been given written warning for similar shortcomings during the previous year.

Mr. Speaker, these are some of the issues that arose out of the discussion from the Member for Diego Martin East, and in attempting to give a clear indication as to some of the assurance measures given, in terms of the guidelines for proprietors and examiners, I am sure that he would realize that a number of them were dealt with in terms of the authorization of garages.

In other areas, issues raised included the guidelines for Motor Vehicle Examiners. Having completed training and the orientation course approved by the Transport Division the proposed examiner, would be issued his certificate duly signed by the Transport Commissioner authorizing the examiner to perform inspection checks on privately registered motor vehicles not exceeding 2270 kilogramme and also on motor cycles.

- (1) The Examiner shall ensure that inspection checks are done fairly, impartially and to the best of his or her ability at all times. Integrity and honesty should be the watchwords of his or her functions.
- (2) In the performance of duties, he or she must comply with the Motor Vehicles and Road Traffic Act Chap. 48:50 and any subsequent amendments to the Act.
- (3) Carry out inspection checks only on those vehicles specified in his or her certification.

**7.15 p.m.**

The vehicles presented in a condition that does not make it unreasonably difficult for examination to be carried out and, in fact, be in a position to be safe.

Mr. Speaker, official forms which are used in connection with the vehicle testing stations are listed and I have some notes on their uses. Application for premises to be used as a vehicle testing station or compound and a number of important issues arise. You must ensure that you have all the approvals from Town and Country Planning Division and in the carrying out of this exercise you do not cause congestion on the roadways and you must have the appropriate compound in order to facilitate some of these actions.

The point the Member for San Fernando West made in respect to regulation 27(d)(3) dealing with the winding up order, and the point made by the Member for

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[SEN. THE HON. S. BAKSH]

*Friday, March 19, 1999*

Diego Martin Central with respect to the criteria and other matters including some of the issues relating to winding up, I shall continue at the next sitting.

**Mr. Bereaux:** Before the Minister concludes, I am sorry to have to interrupt, but could the Minister indicate whether he has taken into consideration a case where an examiner finds a defect and behaves in a manner where he directs the owner of the vehicle to a particular repair shop?

**Hon. S. Baksh:** Mr. Speaker, this could be considered one of the breaches that could lead to the withdrawal of authorization: if a proprietor refers any person who comes to the vehicle testing station to have his vehicle repaired at their facility or to even encourage any person to come to his facility. The guidelines clearly say so.

Mr. Speaker, some of the points raised by the Member for Diego Martin West and the Member for Diego Martin Central need some further consideration, and I propose we continue another day when I am in a position to consult and look at some of those issues because they raised some points which I am of the opinion would be able to enhance this regulation. Having waited since 1978, I see no reason we cannot wait longer.

#### ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that this House do now adjourn to Friday, March 26, 1999 at 1.30 p.m. That is Private Members' Day and there are two motions on that day.

**Mr. K. Valley:** Mr. Speaker, as it is Private Members' Day the Opposition would like to continue with motion No. 1, the motion relating to the Inncogen matter, and if time allows to go on with motion No. 2 on the Order Paper by the Member for Diego Martin East.

*Question proposed.*

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 7.20 p.m.*