

*Leave of Absence**Monday, May 01, 2000***HOUSE OF REPRESENTATIVES***Monday, May 01, 2000*

The House met at 10.30 a.m.

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

Mr. Speaker: Hon. Members, I wish to advise that apart from those Members who have already been excused from today's sitting, I have received communication from the Member for San Fernando East who has asked to be excused from today's sitting. The leave of absence which he seeks is granted.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order paper in the name of Mr. Fitzgerald Hinds:

**Couva Government Secondary School
(Funding of A'Level Programme)**

53. Would the Minister of Education state whether the government funded either in total or in part the cost of inclusion of the A' Level programme at the Couva Government Secondary School?

Recruitment of Teachers

- 54.** (a) Could the Minister of Education indicate how many teachers have been recruited and posted at the nation's schools between January 1996 and March 01, 2000?
- (b) Would the Minister further indicate how many have left the Teaching Service during the same period?
- (c) Would the Minister further state how many of those who left did so because of:
- (i) compulsory retirement;
 - (ii) early retirement at 50 years;
 - (iii) resignation before age 50 for any reason?

**Forensic Science Centre
(Document Examiners)**

55. (a) Would the Minister of National Security indicate the number of Document Examiners employed by the Government's Forensic Science Centre as at March 01, 2000?
- (b) Is the Minister aware that the shortage of Document Examiners has hindered the prosecution of certain criminal offences?
- (c) Would the Minister indicate what action is being taken to rectify this obvious lacuna in the criminal justice system?

**Government Houses
(Sale of)**

56. (a) Would the Minister of Public Administration indicate how many houses owned by Government were sold on January 01, 1996 and March 30, 2000?
- (b) Would the Minister indicate the purchaser, price and location of each house sold?
- (c) Would the Minister further indicate in detail the procedure adopted for the offer and sale of each unit?

**Foreign Lawyers and/or Foreign Law Firms
(Contract of)**

57. (a) Would the Attorney General and Minister of Legal Affairs identify the foreign lawyers and/or foreign law firms retained or contracted by the Government to provide legal advice and/or other legal services between January 01, 1996 and March 30, 2000?
- (b) Could the Attorney General advise as to the nature of the work involved in each case and the respective cost?
- (c) Would the Minister further indicate how many of these cases involved advice or opinions orally presented as opposed to written advice or opinions?

**Award of Scholarships to Teachers
(UWI, Jamaica)**

58. (a) Would the Minister of Education please indicate whether Government's policy to award scholarships to teachers and other persons to pursue BA degrees in geography at UWI, Jamaica is still in force?
- (b) Would the Minister indicate how many persons were granted scholarships under these arrangements during the period January 1996 and December 1999 and could he indicate what was the Government's objective in facilitating such training?
- (c) Could the Minister state whether the Government's objective was achieved and if not, could he provide reasons for the failure?

**Commission of Inquiry
(Terms of Engagement)**

59. (a) Would the Attorney General and Minister of Legal Affairs indicate the specific terms of engagement for the services of the three Members of the Commission of Inquiry appointed to enquire into the administration of justice?
- (b) Could the Attorney General state the projected cost of 'expenses' to be incurred by the State in respect of these Commissioners and give an indication of the various items of expenses?
- (c) Could the Attorney General indicate the source of these funds?

**Mr. Geoffrey Robertson QC
(Contract of)**

60. Would the Attorney General and Minister of Legal Affairs indicate:
- (a) Is Mr. Geoffrey Roberston, QC, retained by way of contract with the Government of the Republic of Trinidad and Tobago?
- (b) If yes, what are the terms of the contract and could the Attorney General state the full amount of the fees or retainer to be paid to Mr. Geoffrey Roberston, QC, for his services as Legal Counsel to the Commission of Inquiry established to enquire into the administration of justice?

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, in the light of our sitting on Friday and today, the Government would not be able to answer the questions on the Order Paper today. I ask for the questions to be deferred for one week with the exception of question No. 57, which is in the process of being done, but it is taking a very long time. We would ask for question No. 57 to be deferred for three weeks but the remainder of questions, one week.

Mr. Speaker: Hon. Members, in the light of agreement being reached by both sides, the questions on the Order Paper will be adjourned for one week with the exception of question No. 57, which will be adjourned for three weeks.

Questions, by leave, deferred.

DANGEROUS DOGS (NO. 2) BILL

Bill to provide for regulating the keeping of dangerous dogs which present a serious danger to the public; to make further provision for ensuring that such dogs are kept under proper control; and for connected purposes, [*The Attorney General*]; read the first time.

INTERRELATED BILLS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I seek the leave of the House to debate together the other two Bills before this House, which relate to this subject of debate. These are two Bills to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50. One deals with the introduction of the offence of causing death by dangerous driving, and the other, the introduction of Traffic Wardens and a Penalty Points System.

Mr. Speaker: Are you going to do it or the Minister of Works? Member for Diego Martin Central, the Attorney General and Minister of Legal Affairs has just sought leave that two other Bills be debated at the same time as Bill No. 1 on the Order Paper. I take it that there is no objection to this.

Assent indicated.

MOTOR VEHICLES AND ROAD TRAFFIC (ENFORCEMENT AND ADMINISTRATION) (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That a Bill to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52, be now read a second time.

Mr. Speaker, I must thank the Opposition for agreeing to this cause. These three measures are intended to remedy certain deficiencies in the law as it deals with Motor Vehicles and Road Traffic. The Motor Vehicles and Road Traffic (Enforcement and Administration) (Amdt.) Bill seeks to alleviate certain difficulties now being experienced by the Magistracy in its enforcement of certain road traffic laws.

In 1971, a new system of enforcing the road traffic laws of Trinidad and Tobago was introduced. The new system was popularly known as the “ticket system”. Its main purpose was to reduce the burden on Magistrates’ Courts by providing for the issuance of notices of tickets to presumed traffic offenders. The notices required the offenders to pay a fixed penalty prescribed by the Motor Vehicles and Road Traffic (Enforcement and Administration) Act.

There are certain major deficiencies of the existing ticket system. The Motor Vehicles and Road Traffic (Enforcement and Administration) Act, when dealing with the owner of a vehicle, considers only the registered owner. Mr. Speaker, situations arise in which it may be necessary to take action against someone other than the registered owner. For instance, action may be required against a person who is the owner by virtue of a hire purchase agreement; a person perhaps who is the owner by virtue of the registered owner being out of the country and he or she is in possession of the vehicle; and the existing legislation does not recognize a person who owns an unregistered vehicle.

Mr. Speaker, according to the provisions of the Act governing the ticket system, motorists are given tickets for traffic offences and can pay the fines associated with these tickets at any of the courts, Warden’s Offices or Licensing Offices which are located in districts all over Trinidad and Tobago.

It has proven extremely difficult to put in place a system that would ensure that the information as to the payment of these fines, reaches the relevant court in a timely, regular and substantial manner. The fact that this information does not reach the court in time has produced many difficulties. The result is that very often when a matter reaches the court, the instances where the offender is not present to answer the matter, the Magistrate is unable to verify whether payment has actually been made, and the Magistrate is obviously reluctant to either issue a warrant in respect of the offender or to determine the matter *ex parte*. What generally happens is that the Magistrate opts for the issue of a fresh summons and that process goes on and on and the police resources then become engaged in chasing or locating the offender, a very time-consuming and non-productive exercise.

Mr. Speaker, I know it is not a time when you would visit these courts, but any lawyer who is familiar with the courts at the present time would see that the matter is called up and there are just fresh summonses to issue. Sometimes when the matter has been called up several times and the summonses have not been served, the matters are dismissed.

10.40 a.m.

Mr. Speaker, another area which has proven to be deficient is when the offender is not on the site at the time for the issuing of the ticket. Only the registration number of the vehicle is included on the ticket. It is not possible to include the name of the owner or offender since such information is not available at the time. Such a ticket, if the matter goes to court, provides a basic, ironically, to prosecute the vehicle and not the owner, and such cases are very often dismissed.

Mr. Speaker, clause 4 of the Motor Vehicles and Road Traffic (Enforcement and Administration) Bill would amend section 3 of the Motor Vehicles and Road Traffic (Enforcement and Administration) Act in the following ways: In subsection 2(a) the words “registered owner” are replaced by the word “owner” and given the meaning assigned to it in the Motor Vehicles and Road Traffic Act, Chap. 48:50.

This would remedy that one deficiency that I have spoken about. In subsection 2(b), the effect of the proposed amendment would be that the fixed penalty notice would no longer constitute a notification to the alleged offender, that the complaint would be laid against him. At present, when a constable actually finds a motorist committing a schedule offence, the notice not only charges him with the offence but it also notifies him that a complaint would be laid against him.

Mr. Speaker, subsection (5) will be repealed and replaced. The proposed amendments would deem the notice to be a complaint issued under section 33 of the Summary Courts Act. Under the present law, a fixed penalty notice is deemed to be from the expiration of the time specified therein for the payment of the related fixed penalty, a summons duly issued and properly served under the Summary Courts Act. A new subsection (6) would be introduced. This would deem a notice served under the Act to be from the expiration of the time specified for the payment of a fixed penalty, a summons issued and served in accordance with sections 42 and 43, respectively, of the Summary Courts Act.

So new subsection (7) and subsection (8) would allow an alleged offender who believes that he has a good defence, to pay the fixed penalty within the time specified for the payment and subsequently appeal to the magistrate on the prescribed form. Where the court decides in favour of the appeal, the amount paid by him will be refunded.

On the other hand, if the person does not pay the penalty in the belief that he has a good defence or fails to pay the penalty, for whatever reason, within the specified time, he would still be required to appear before the magistrate by virtue of the fixed penalty notice which becomes a summons at the expiration of the time specified for its payment. The magistrate may, if he thinks the offender is guilty, impose a fine greater or less than the fixed penalty for the offence.

What this does, therefore, is that when the ticket is given the person will pay that fine, but if the court decides in favour of him the fine would be refunded to him. If he contests the matter and appears before the court, when he appears before the court the magistrate would have the discretion to order the same sum on the penalty, or order a lesser sum or a greater sum.

Clause 5 would repeal and replace the existing section 5 of the Act. Most of it would be tidying up the section, however the proposed section 5(1) is redrafted to require the driver or owner of the vehicle to pay the fixed penalty. This differs from the existing provision which requires payment by the driver or registered owner. By introducing the requirement for the owner to pay the fixed penalty, this legislation would sometimes catch a person in control of the vehicle at the time of the commission of the alleged offence. Again, this will remedy one of the deficiencies of the system as it relates to taking action against someone other than the registered owner.

The proposed section 5(2) would repeal and replace the existing provision which permits payment to be made to the Clerk of the Peace, the Licensing Office or District Revenue Office in the district where the alleged offence was committed. The amendment would ensure that any future payments would be made to the Clerk of the Peace in the district only. This would remove the existing administrative inconvenience leading to delays in submission of the returns of payment to the offices of the Clerk at the end of each week.

Mr. Speaker, the proposed subclauses 5(3), (5) and (6) would sort out and tidy up the existing provisions. The proposed subclause 5(4) would make it mandatory for payments to be accompanied by the relevant fixed penalty notice in an attempt to ensure that the Clerk of the Peace and the magistrate will have as much information as possible, on the offence as well as on the offender.

Clause 6 repeals and replaces section 7 and removes all references to existing roles for the Licensing Office and the District Revenue Office, *vis-à-vis*, the processing of payments and the making of returns on these payments. This will go towards remedying the deficiency which results in the relevant court gaining access in a timely, regular and sustained manner, the information regarding the payment of fixed penalties.

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Clause 6 would also preclude the listing for hearing in court of an offence deemed to be instituted by a notice, unless the Clerk is furnished with the information on the owner of the vehicle.

Mr. Speaker, clause 7 takes into consideration the introduction of a penalty points system for traffic offences under the Motor Vehicles and Road Traffic (Amdt.) Bill and empowers the President to amend the First Schedule to the Motor Vehicles Road Traffic (Enforcement and Administration) Act which attaches penalty points of varying values to offences which attract fixed penalties.

Clause 8 would amend the First Schedule to increase fixed penalties. If one looks at the Schedule one would see the names of the offences, basically, what the enactment is and what the fixed penalty is and what the penalty points would be. I do not think I need go through this with hon. Members.

Basically, what this first Bill does is expands the meaning of the definition of owner. It introduces machinery which would, in effect, ensure that the persons who get tickets would pay these tickets and if they appeal and they succeed, the moneys would be refunded to them. It would prevent the police from having to chase down the owners of these vehicles or the persons to whom the tickets were given and it also provides the machinery for the points system. It increases the fines in respect of some matters mentioned in the First Schedule and allots the penalty points. Mr. Speaker, may I say that this Bill received unanimous support in the other place.

May I mention to hon. Members, Mr. Speaker, that the Bill must be taken in the light of some of the amendments which were made in the Senate on December 14, 1999.

The Motor Vehicles and Road Traffic (Amdt.) Bill seeks to introduce a system of awarding penalty points against a person for the commission of offences under the Motor Vehicles and Road Traffic Act, Chap. 48:50. The Bill seeks to implement also a traffic warden system in Trinidad and Tobago. Under this system traffic wardens will perform certain minimal functions related to traffic flow and illegal parking and also in relation to assisting the police in the enforcement of the law.

There existed in Trinidad and Tobago in the 1960s a point system for traffic offences. A point schedule allotted a specified number of points for each conviction registered for a traffic offence. Information on offenders and their convictions were forwarded to the transport division which used the information provided by the courts and its driving permits record at the point schedule to keep a file on offenders. When such an offender sought to renew his driving permit, if his records revealed that he had exceeded a stipulated number of points for a stipulated period, his driving permit was suspended for a stipulated period.

At that time when the system was in existence, driving permits were in a book form and details of convictions for the traffic offences were recorded therein. In 1978 when laminated driving permits were introduced, the point system fell into disuse. The Minister of Works and Transport held consultation with appropriate officials and bodies and was of the view—that was shortly after 1978—that there should be the reintroduction of the penalty point system, and that it would go a long way towards protecting children, pedestrians, and law-abiding drivers from negligence and accident prone drivers.

When this administration took office, the present Minister of Works and Transport looked at those proposals. The proposals in this Bill were really to implement what was considered to have been done at that time. Mr. Speaker, the Motor Vehicles and Road Traffic (Amdt.) Bill in order to achieve this purpose would insert, by way of clause 3, new sections 86A to 86C into the present Act.

Section 86A, as proposed, would empower the Licensing Authority to suspend the driver's driving permit for a period not exceeding six months. Such a suspension may result where the person's record as a driver of a motor vehicle, his conduct or habit as a driver establishes that it would not be in the interest of public safety for him to hold a valid driver's permit or that he is not competent to drive a motor vehicle.

The proposed section would also enable the President to make regulations establishing the system of awarding penalty points against an offender for offences under the Motor Vehicles and Road Traffic Act and the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52.

Mr. Speaker, subsection (3) would provide for the regulations to specify the maximum number of points to be awarded against a person before it may be established that it would not be in the interest of public safety for him to hold a valid driver's permit, or that he is not competent to drive a motor vehicle. Subsection (5) will ensure that the Licensing Authority notifies the driver when the points awarded against him reach 50 per cent of the stipulated number that would result in suspension of his driving permit.

Where a person is disqualified by a court from holding or obtaining a driving permit for a specified time, the points accumulated by him up to that time will be cancelled. This would be, in effect, what is proposed in subsection (6). Subsection (7) would provide that a person who holds a valid driver's permit and out of the same incident commits two or more offences under the Motor Vehicles and Road Traffic Act and the Motor Vehicles and Road Traffic (Enforcement and Administration) Act shall be awarded penalty points for the offence which carries the largest number of points that may be awarded against him.

10.55 a.m.

Subsection (8) would ensure that traffic offences, in respect of which the offender has paid the fixed penalty, would be taken into account in computing the offender's overall penalty point liability.

Mr. Speaker, the proposed section 86B would ensure that the rules of natural justice are complied with before the offender's driving permit is suspended. This clause would therefore require the Licensing Authority to notify the offender of its intention to give him 14 days to show cause why the Licensing Authority should not suspend the driving permit. Where the offender fails to show cause, if the authority, after considering any mitigating factor, decides on suspension, the authority shall give the offender written notification of the suspension and the offender will also have a right of appeal against the authority's decision to suspend.

The proposed section 86C would require a person whose driving permit has been suspended to surrender his permit to the Licensing Authority. At the end of the period of suspension, Mr. Speaker, the permit will be returned to the holder and the points awarded against him would be cancelled. It would also be unlawful for a suspended driver to drive a motor vehicle on a road under any driving permit issued by any other authority, which means that he would be unable to drive on the road using a valid driving permit issued in any other country.

Mr. Speaker, the Motor Vehicles and Road Traffic (Amdt.) Bill will introduce a traffic warden system. Under clause 3 of the Bill, it would insert in the parent Act the definition of a "traffic warden" as a person appointed in accordance with the provision of section 10(a) of that Act. Section 10(a) would empower the Police Commissioner to precept traffic wardens subject to the approval of the Minister and subject to criteria established by the Minister responsible for transport, after consultation with the Licensing Authority.

Mr. Speaker the traffic wardens would be responsible for assisting the police in connection with the control and regulation of road traffic and with the enforcement of the law. Traffic wardens may be appointed from organizations, obviously subject to the precept of the Police Commissioner. The uniform of the traffic warden would be that approved by the Police Commissioner. It will be an offence for a driver to fail to comply with the directions given by a traffic warden on duty, or for any person to obstruct the traffic warden in the execution of his duty or to aid or abet any person not to comply with the directions of a traffic warden and so obstruct the traffic warden in the execution of his duty.

It is quite obvious that the introduction of traffic wardens would free up many police officers who are engaged in traffic duties and who have to attend court in respect of traffic matters. Obviously, Mr. Speaker, it is quite clear that these police officers can be engaged in other matters which may be considered more serious than some of these matters. The whole concept of the introduction of the traffic wardens is to provide a service in which the traffic wardens would be engaged in traffic matters and the police service would be engaged in doing some of the other matters relating to the preservation of law and order.

Mr. Speaker, with respect to the Motor Vehicles and Road Traffic (Amdt.) Bill, the objective of this amendment is to introduce into the road traffic laws of Trinidad and Tobago, the statutory offence of causing death by dangerous driving and to substitute for the existing offence of reckless or dangerous driving, the reformulated offence of dangerous driving.

Mr. Speaker, at present, where death results from a motor vehicle accident, the matter is prosecuted as manslaughter; which is an offence at common law and carries the maximum penalty of life imprisonment. In order to secure a conviction for that offence, the prosecution is required to establish a very high degree of negligence. The standard of negligence, which is required to constitute causing death by dangerous driving, would not be the same as that required to constitute the offence of manslaughter.

What has happened in practice, is that when there is a death in a motor vehicle accident, based on the facts, the police either decide that, based on the existing law, there are not sufficient to have a charge of manslaughter. What happens is that the police then charges for dangerous driving which must be distinguished from the new offence of causing death by dangerous driving. In cases where the police charges the person for manslaughter, I am told from the statistics, in most of those cases, the matter does not reach the High Court, and sometimes when they reach the High Court, the matters are dismissed. The reason for that is that manslaughter, which is death caused on the road by a driver of a motor vehicle, can only be established if one can show gross recklessness. Recklessness in criminal law is such that the judge would have to warn the jury about the elements which are required and would have to tell them that if they are in any doubt about being sure as to these elements, their duty is to acquit the person.

What has happened is that it has been found that it is very difficult to secure convictions against drivers who cause death by dangerous driving but our law is, that one has to show recklessness to the extent to constitute manslaughter.

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Mr. Speaker, what this Bill does is that it tries to fill that lacuna in the law which other countries filled years ago. For example, the United Kingdom had a similar problem. I think it was in 1971 they decided to introduce law to create this new offence of causing death by dangerous driving.

As I said, Mr. Speaker, in directing a jury on a charge of manslaughter, arising out of the driving of a motor vehicle, under the present system the judge would have to first tell the jury that a very high degree of negligence must be proven in order to establish the crime of manslaughter. He will then have to go on to explain that that degree of negligence is not necessarily the same as that which is required to constitute the offence of reckless or dangerous driving.

It becomes quite clear that even if the prosecution can establish the offence of reckless or dangerous driving, it does not necessarily follow that it could succeed in establishing the offence of manslaughter, as the high degree of negligence necessary to establish that offence is higher than that for driving recklessly or driving dangerously.

As I said, what has been found is that where manslaughter—as it carries the maximum penalty of life imprisonment—the experience has shown that juries are sometimes reluctant to convict motorists of manslaughter for the reason that they rarely find that the necessary high degree of negligence has been established: a finding which, obviously in their minds, they would think would expose the motorist to a possible sentence of imprisonment for life. Since the members of the jury are the deciders of fact and not even the judge can interfere in those findings, it would mean that if a jury believes that there is not sufficient proof of that high degree of negligence—one has to be practical about this—and they believe that by their verdict this man can get life imprisonment, where there is doubt, as they are entitled to do, the jury would acquit. The result is that the accused is acquitted of the charge of manslaughter, but is probably found guilty of dangerous driving. Under our law, we do not have an offence of causing death by dangerous driving; there is an offence of dangerous driving and reckless driving.

11.05 a.m.

The present penalty for the lesser offence of dangerous or reckless driving is quite inadequate to take account of the loss of life occasioned by the driver's action. The reconstituted offence of dangerous driving proposed in this Bill would replace the existing offence of reckless or dangerous driving and would introduce a more objective assessment of the driver's behaviour. The redesigned offence requires only that bad driving be demonstrated through it, rather than by establishing a driver's intention. The successful prosecution of offenders causing death by dangerous driving would hinge upon the ability of the prosecution to prove dangerous driving and then to establish the causal link between the death and the driving.

As to the offence of dangerous driving, the elements of the offence are clearly prescribed and are based on objective rather than subjective criteria. The court would concentrate on what would be expected of a competent and careful driver. The new offence of causing death by dangerous driving would cover cases where the driver's negligence is substantial, but rather less than that required for manslaughter.

Mr. Speaker, it is not the intention of this amendment to abolish the common law offence of motor manslaughter, but to introduce what may be referred to as an intermediate offence. The common law offence of motor manslaughter will continue to exist and where there is evidence that the behaviour of the accused falls within the definition of manslaughter, he or she would be expected to be prosecuted for that offence.

Mr. Speaker, now to consider the provisions of the Bill on a clause by clause basis. Clauses 1 and 2 are self-explanatory so we go to clause 3.

Clause 3 seeks to amend section 70 of the Act to provide penalties which reflect the seriousness of the offence. Section 70 deals with driving under the influence of alcohol and it states:

- (1) "Any person who, when in driving or attempting to drive or when in charge of a motor vehicle on a road, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, is liable on first conviction to a fine of two thousand dollars and to imprisonment for six months and on any subsequent conviction, to a fine of four thousand dollars and to imprisonment for 12 months.
- (2) A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of 12 months from the date of conviction for holding or obtaining a driving permit, and on a second conviction for a like offence he shall be permanently disqualified for holding or obtaining a driving permit."

Mr. Speaker, it is quite clear that anyone would recognize that punishment is totally inadequate in today's world. So what clause 3 seeks to do is to provide penalties which reflect the seriousness of the offence to discourage motorists from engaging in the practice of consuming alcohol or drugs and driving regardless of the danger they pose to other motorists and pedestrians. The proposed amendment would increase, significantly, the penalty for that offence. At present, the penalty for a first offence is a fine of two thousand dollars and imprisonment for six

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months, and on any subsequent conviction, the penalty is a fine of four thousand dollars and imprisonment for 12 months. Additionally, as I just read, on a first conviction, a convicted person is disqualified from holding or obtaining a driving permit for a period of at least 12 months. On a second conviction for a similar offence, the disqualification is permanent.

The amendment proposes to increase the penalty so that for the first offence, the penalty would be a fine of \$8,000 instead of \$2,000 and to imprisonment for three years instead of six months, and on any subsequent conviction, the penalty would be a fine of \$15,000 and imprisonment for five years instead of a fine of \$4,000 and imprisonment for 12 months. As to disqualification, it is proposed for a first offence to increase the minimum period of disqualification from 12 months to three years. As disqualification is permanent on a second conviction for a similar offence it was unnecessary to propose any change.

Mr. Speaker clauses 4 and 5 speak of the main purpose of this amendment and deal with the new dangerous driving offences. Clause 4 would repeal the existing section 71 of the Act which deals with the driving offence of reckless or dangerous driving and would replace it with a new section 71 which would introduce the new offence of causing death by dangerous driving. The new offence would carry a penalty of imprisonment for 15 years along with a mandatory disqualification period of 15 years upon a first conviction, and a subsequent conviction for a similar offence would lead to permanent disqualification.

The new section 71 would empower a constable in certain circumstances to arrest, without a warrant, the driver of a motor vehicle who, within his view, commits an offence under the section. Those circumstances would be where the driver refuses to give his name and address, or if the constable has reason to believe that the name or address given is false, or if the motor vehicle does not bear an identification plate.

Clause 5 would seek to amend the Act by inserting into the Act two new sections, 71A and 71B. The new 71A would introduce the reformulated offence of dangerous driving. A person convicted of that offence would be liable on summary conviction to a fine of \$10,000, and to imprisonment for five years. Periods of disqualification from holding or obtaining a driver's permit are also prescribed for this offence. Upon a first or second conviction, the mandatory minimum period of disqualification would be 12 months. A third conviction for a similar offence would result in permanent disqualification.

It should be noted that permanent disqualification comes upon a third conviction for the offence of dangerous driving, while in the case of the offence of causing death by dangerous driving, permanent disqualification comes with the second conviction. The proposed amendment describes the criteria of dangerous driving, thus simplifying the particulars required to prove the offence of dangerous driving. The standard of driving would be judged in absolute terms taking no account of factors such as inexperience, age or disability. These factors would become relevant only for the purposes of sentencing.

Mr. Speaker, a person drives dangerously if the way in which he drives falls below what would be expected of a competent and careful driver and it would be obvious to a competent and careful driver that driving in that way would be dangerous. The state of the vehicle is also an important factor in dangerous driving offences. The proposed amendment makes the state of the vehicle relevant to both offences so that a person who drives dangerously, if it would be obvious to a competent, careful driver that driving the vehicle in its current state would be dangerous, in determining the state of a vehicle, the court may have regard to anything attached to, or carried on or in, or to the manner in which it is attached or carried. The requirements of the offence would be met if the state of the vehicle were such that a competent and careful driver would not drive it at all.

Mr. Speaker, dangerous refers to a danger either of injury, however minor to any person or serious damage to property. The danger would have to be one which a competent and careful driver would have appreciated or observed. It would not be necessary to establish that any person or property was actually endangered. It would be sufficient for the prosecution to establish that a competent and careful driver would have appreciated that some person or property might be endangered by the driver's manner of driving.

Additionally, in determining what would be expected of, or obvious to a competent and careful driver in a particular case, regard is to be had, not only to the circumstances of which he could be expected to be aware, but also to any circumstances shown to have been within the knowledge of the accused.

Mr. Speaker, the substantive amendments which would be introduced by this amendment require certain consequential changes which are effected by clauses 6 and 7. Clause 6 would amend section 73 of the Act by removing the reference to reckless and dangerous driving and introducing a reference to the reconstituted offence of dangerous driving.

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Clause 7 seeks to amend section 81 by replacing the reference in that section to section 71 with a reference to section 71A. At present, section 81 deals with the power of a magistrate to proceed on a charge for careless driving and the hearing of charges under section 71, if that present power is to be preserved in regard to the offence of dangerous driving which would now be dealt with in the new section 71A, the reference to section 71 must be replaced by a reference to section 71A

Mr. Speaker, Trinidad and Tobago is not unique in making these changes. As I mentioned, the United Kingdom had to do likewise, Canada did likewise and several other countries. We have inherited our laws from the United Kingdom. The difficulty is that we have not really monitored them from time to time to effect the changes that were required? These amendments are really to try to remedy some of the deficiencies in the law and, to use the expression, to try to see if “road hogs” can be eliminated from the road.

Just to give Members some idea of what occurs, in 1997 I am told that the total number of road accidents was 24,000 and the total number in which people died was 121. In 1998, there were 25,478; 150 persons died. In 1999, there were 24,968 and the number of persons who died was 180. So one sees that on the road, quite apart from matters which have to be done, there is a necessity to take steps to improve the legal infrastructure so that persons who break the law or drive recklessly or dangerously, or cause death on the roads can be prosecuted or convicted so that the law can send a signal to prevent people from driving badly on the roads.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Speaker: Hon. Members, may I remind you that it has been agreed that there could be discussions on two other Bills: the Motor Vehicle and Road Traffic (Amdt.) No. 3 Bill; the Bill to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, and the Road Traffic (Amdt.) Bill, which are numbers one, two and three on the Order Paper.

11.20 a.m.

Mr. Eric Williams (*Port of Spain South*): Mr. Speaker, thank you for recognizing me and for allowing me to enter this debate on a Bill to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52. Also, the two other associated Bills: “An Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50: (Introduction of Offence of causing death by dangerous driving); and “An Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50: (Introduction of Traffic Wardens and Penalty Points Systems).

I sat here listening to the hon. Attorney General, the Member for Couva South, going through the law of these three Bills which are under the name of the Minister of Works and Transport, and I really thought that we would have had the hon. Minister—I see he is present—piloting his legislation, and giving us the overall policy and the philosophy of these Bills. And, at the same time, if it were necessary, at some later stage—for us to clear up some legal issues—then the advisor to the country on legal matters would have come into the debate. *[Desk thumping]*

Clearly, as we get in to this season of elections and so on, there are all sorts of rumours circulating as to who is busy and who is not so busy; who is competent, who is not so competent; who is liked and who is not so liked. Actions of this sort only serve to fuel some of these rumours that are circulating; particularly, so, since I am advised that these three pieces of legislation were left on the books, almost ready, by the previous Government. Indeed—you see they like to say “coulda, woulda, shoulda.” The fact of the matter is—*[Interruption]* Mr. Speaker, I wish we had left Arima somewhere else also—*[Desk thumping]* These Bills were due to come to the Parliament in 1996. Now, events changed, they were left on the books, one would have expected that a Government that says that it is so concerned about the carnage on the roads; so concerned about filling the lacuna in the law, would have brought this Bill to the Parliament at a much earlier stage. Indeed, we agree with the purport and the intent of the Bills. Some of the issues within the Bills we have a little difficulty with.

Indeed, these Bills are meant to curb the carnage that has been occurring on our roads, and any caring Government, meeting this legislation on the books, would have hurried to the Parliament with it. Clearly, it seems that they did not understand it, and when we go in to some of the details—*[Interruption]*

Mr. Maharaj: Mr. Speaker, I just want to know if the hon. Member is saying that the last administration left legislation on the books for these matters?

Mr. E. Williams: No, Mr. Speaker, that is not what I am saying. I said that the proposed legislation was at an advanced stage of preparation. *[Interruption]* Well, fine; fair enough. *[Interruption]*

Mr. Speaker: Order, please!

Mr. E. Williams: Thank you, Mr. Speaker. I would ask the Member for Chaguanas to not take the Lord’s name in vain in the Parliament, as he just did.

Mr. Hinds: He cannot help it.

Mr. E. Williams: As I was saying, I noticed, as the hon. Member for Couva South was piloting the legislation, he made reference to road hogs and all the Members turned to face seat No. 3, the Member for Pointe-a-Pierre. I wonder if the failure to bring this legislation to the Parliament at an earlier stage was due to the fact that certain traffic infractions of the Member for Pointe-a Pierre were fresh in our minds. Could you just see the sheriff galloping up the highway; albeit on the left hand side of the highway going to who knows where, running into the strong arm of the law and having an altercation on the highway, and then we come to bring this legislation to Parliament? Clearly, it seems that we had to have a lacuna in time, before bringing this to the Parliament so that certain memories would have subsided a bit. [*Desk thumping*]

How many have died on the roads? How many would have been saved if we had put some of these provisions in place? When one looks at the legislation, clearly one then sees that there is a lack of understanding and there are certain arbitrary clauses in here which do not seem to stand when one looks at them rationally. I want to go through some of these issues.

In the first one, the Enforcement and Administration; we are being asked to introduce a system of points and fixed penalties on the roads. Let us look at some of these penalties. The Attorney General read the Explanatory Notes and the Bills, so we have already covered that ground, to some degree. We are still waiting to hear overall, some of the administrative details and the philosophy. We will talk about that a little further.

When you look at the First Schedule of this Bill there are some things that really cause one to stop and think. For instance, we are saying, under Offence, No. 1: "Defaced or defective identification plate" will attract a fixed penalty of \$60.00 and 3 points."

But then at No. 3, we are saying for "No identification plate fixed to the front or back of vehicle," it attracts \$150.00 and 20 points."

With regard to No. 4, "No identification lights on vehicles at night," it attracts \$60.00 or 3 points."

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, what is the difference? At night, if you have no identification plate fixed, or if you have no lights, the net result is the same. No one would be able to see what is the identification number on the vehicle. Yet, we have this dichotomy of difference in the penalties. There is no explanation in the Bill as to why. What is the reason? Why is one more serious than the other?

Let us look at No. 5. It is the offence that says:

“Number of passengers to be carried not printed on right front door of taxi.”

Well, that would attract a \$60.00 penalty or 3 points.

No. 7 speaks to not having the Tare and the Maximum Gross Weight painted on a goods vehicle.

11.30 a.m.

Now, Mr. Deputy Speaker, would you believe that the fixed penalty for that offence is now \$200 and 30 points? In other words, to list the number of passengers that one could carry, human beings, attracts three points or \$60, whereas listing the weight of goods that a truck could carry, just the offence of not listing the weight, the tare and the maximum gross weight, \$200 or 30 points. Which is more important, human beings or goods?

Further to that, if you compare with item No. 60 the item—and let me read what 60 is, a goods vehicle actually carrying excess weight—that attracts a penalty of \$150 and 20 points. In other words, Mr. Deputy Speaker, this is out of order in the sense that failure to have the sign painted on the vehicle attracts the maximum number of points, the actual carriage of excess weight attracts a lesser number of points. So which is more important? Do we want people carrying the correct weight or not? Then, when one compares this now to the carriage of passengers in a passenger vehicle, the same thing, painting on a sign to state what is the limit attracts such a penalty. Mr. Deputy Speaker, it does not make sense. It appears to not make sense. I hope later on that we can hear something about that.

Item No. 16 says:

“No ‘left hand drive’ notice affixed to appropriate vehicle”

\$60 or three points, but when one compares it with the six items which come before it—and let me list them—16 says:

“No ‘left hand drive’

notice affixed to

appropriate vehicle

60.00 3”

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But then:

“10.	Unauthorised lights to front or rear of vehicle	\$150	20
11.	Unauthorised letters and figures on vehicle	\$150	20
12.	Vehicle without two head lamps	\$200	30”

This is the maximum.

“13.	Vehicle without park lights	\$200	30
14.	Vehicle without tail lights	\$200	30
15.	Vehicle with unauthorised spot or swivel lights	\$200	30”

Some of these infractions indeed cause accidents, serious accidents. But can you imagine that the offence of not alerting a driver that the vehicle ahead of him is a left-hand drive vehicle attracts a lower amount than all of these? Because that also is a potential cause of accidents. So what is the ratio? What is the balance between them?

Mr. Deputy Speaker, I would like to know from the Minister later on what No. 26 is all about. I hope he will explain that one.

Then let us look at Nos. 27 and 28. No. 27 is, “Parking within three metres of a fire hydrant”. We all know the scenario. Here the fire engine comes, they want to put out a fire, vehicles are sometimes around or could be around a fire hydrant, okay, fair enough. That should attract a fine. In fact, that is in the law today. No. 28 is, “Parking within three metres of the frontage of a fire station: \$200 or 30 points”. Are they not comparable, Mr. Deputy Speaker? So why is one \$60 and three points and the other one \$200 and 30 points? What is the balance? They both are seeking to do the same thing. Obviously if you block the fire station you could prevent the engine from coming out and that is serious, but if you block the

fire hydrant and they are not able to get to the fire hydrant to put out the fire, clearly the net result would be the same. Yet there is this disparity between the two. I am not saying that the one that is lower ought to be the same as the higher or the one that is higher ought to be the same as the lower. What I would like to know is, what is the relationship between them? Why is there that difference?

When you compare, Mr. Deputy Speaker, items 42 with 45; 42 is the offence of “use of noisy vehicle”, \$60 and three points but No. 43 is “use of vehicles with defective tyres”, \$200, 30 points. When you look, Mr. Deputy Speaker, at 45, “playing a musical or noisy instrument in a vehicle without permission of the Licensing Authority”—I suppose that is going after the maxi-taxis—\$200 and 30 points. I mean, you have to ask yourself, a noisy vehicle driving down a road at 2.00 o’clock in the morning is just as annoying as a maxi-taxi rocking and rolling going up the road. But what is the difference? Here we have this difference in the penalties. Usually, Mr. Deputy Speaker, quite often, noisy vehicles are defective in that they may have had the muffler fall off or there may be some other more serious damage to the engine. So clearly there are some things that really do need some explanation.

Nos. 51 and 52; 51 is the offence of “a taxi unattended at the head of a taxi stand”. He comes in, parks, leaves the taxi goes to do some other business; \$120 or 10 points. But then item No. 53, “failing to occupy the vacant space in a taxi stand”, \$150 or 20 points. What is the difference? Both of them are unruly behaviour by taxi drivers. What is the difference? Explain to us what is the difference between them? It makes it come across as if you are being arbitrary.

Then, Mr. Deputy Speaker, let us look at No. 62, riding a motorcycle without a safety helmet. I remember somebody describing riding a motorcycle as “riding down the road on a bullet without a bumper”. Your chest is your bumper, your head is also a bumper. You have no defence if you were to fall. So a helmet is a mandatory bit of safety equipment when riding a motorcycle. I agree that if motorcyclists do not wear a helmet they are putting themselves at risk and that vehicle, as it is, is already vulnerable to certain types of accidents as we have seen in the very recent past, and unfortunately so. So this is \$90 and five points, but compare this with items 71 and 72.

Here we are speaking about a cyclist. It does not say motorcyclist so one would presume that it is somebody riding another type of cycle, a bicycle. Item No. 71, “cyclist holding on to another moving vehicle”. As is quite often the case, you see, growing up anywhere, youngsters particularly riding the bicycle, a truck

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may be passing and they would hook on to it and hitch a ride. I have known of cases where the unfortunate has occurred where they may have tripped up, fell beneath the wheel and suffered the consequences. A cyclist holding on to another moving vehicle the penalty is \$150 and 20 points. Then, No. 72, a “cyclist riding with no hands on the handlebar”, as is quite prevalent among youngsters, the same thing obtains, the fine is \$150 and 20 points.

However, Mr. Deputy Speaker, check this out. The motorcyclist will be fined \$90 and five points. He can ride down the road at 60, 70, 80, 90 or 100 kilometres per hour whereas the bicycle is moving much slower and also is at risk, yet the motorcyclist you are charging \$90 with five points and the cyclist is fined \$150 or 20 points. The cyclist does not need to have a licence to be on the road so the fines that he may or may not accumulate and the points are of no consequence because part of what we are talking about here is the suspension and removal of your licence if you are found to be consistently driving or using the roads in a dangerous manner. The motorcyclist who is at greater risk to him or herself and to the public is fined much less than this other individual. It does not make sense. It seems to be a nonsense and indeed it is a case of the youngster versus an adult who is expected to be more mature and who has gone through the current processes required by the state to acquire a licence to be on the road. It does not make sense.

Item No. 63, Mr. Deputy Speaker, deals with exceeding the specified speed limit for which there is a flat, across-the-board, fine of \$200 and 30 penalty points. Mr. Deputy Speaker, in most progressive countries around the world today there is a gradation of penalties for speeding. If you are going five miles over the limit it is, let us say for argument’s sake, a \$50 fine. If you are going above 5 but less than 10 miles over, it might be \$60 or \$70 and so on as you progress, and it reaches a particular point in some places where, if you are exceeding the speed limit by some amount you may actually go straight to jail without going to court.

Now, I am not saying that we want to incarcerate folks here in this country without due process of law, but the point is that—and the Attorney General was quite careful to point out that research has been done into what obtains in other jurisdictions—it is quite clear that in most other jurisdictions which are, by definition, developed countries and are also quite progressive and whom we seek to emulate, they have recognized that there has to be a gradation. But what we are saying here is that if you are going one kilometre over and you are caught, there is one flat fee, the same as the driver who is going 60, 70, 80 or 90 kilometres above the required speed limit. Indeed, in most countries if you are caught speeding in

an area that is close to schools or in residential areas, it may sometimes attract a higher fine than if you are speeding on the highways and byways because those jurisdictions recognize that the life of the child or the pedestrian who is going about his business in the residential area—human life—is important but in those situations the pedestrians could be at greater risk.

Mr. Deputy Speaker, I recall hearing about the fact that we would be getting radar and all these high-tech things in order to be able to detect speeding. I recall hearing that with some fanfare. Indeed, what is used in these other jurisdictions is that sort of technology that allows one to determine that excess speed with greater accuracy. As it is now in our country, our police officers still use the old marker and stopwatch method, determining the time it takes to get from one marker to another point with a stopwatch. That has been proven to be inaccurate and it has also proven to be fraught with error, human error as well as mechanical error. Other jurisdictions have gone to higher levels of technology. So I wonder, what about all of this talk about us becoming a quality nation and aspiring to this and that? What of all the talk about acquiring technology to assist us in managing the traffic situations on our roads? We have not heard about them.

11.45 a.m.

Mr. Deputy Speaker, here it is that as a result of that, we are left with a situation where all speeders are treated in a particular manner, and there is no incentive, as it were—to cause those who would behave as the Attorney General pointed out like road hogs—put in the law to cause them to slow down, because whether I am going five above or 100, above it is the same thing—unless, of course, I am charged with dangerous driving. It does not make sense; it appears to be quite arbitrary; and we believe that his schedule requires a lot of revamping. We wait with bated breath to hear what the Minister would have to say about how he arrived at all of these.

Mr. Deputy Speaker, as if the other items that I have pointed out also seem to be irrational. I was very amused when I saw item No. 77: “Unauthorized driving or parking within Queen’s Park Savannah”, \$200.00 or 30 points. Is that not the same Savannah that this Government went and paved so people could park and drive in it? In fact, the Government extended it. There was already some paving in the Savannah, and this Government, in the face of all the conservationists; in the face of the Environmental Management Authority; and in the face of a member of the population—in fact, the Government was so eager to pave that it nearly paved a man in the Savannah; a former Member of this House. [*Desk thumping*]

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After all of that, here in the law, the Government now wants to fine people for unauthorized driving or parking within the Savannah. I am not sure whether or not the Government is finished paying for the paving, or if it has to dig it up again. So I am wondering if this fine would be going to help further paving in the Savannah to cover the bill that may be outstanding. This makes no sense. The nation requires an explanation from the Hon. Minister about how he came up with all of these penalties and, clearly, we believe that the Bill requires revamping. Do not miss the point, we agree in purport and intent with this. As we say, this piece of legislation is something that we are very familiar with but it requires revamping; it requires some more thought.

Mr. Deputy Speaker, if one looks at the second Bill, the Motor Vehicles and Road Traffic (Amdt.) (No. 2) Bill, 1999—as the Attorney General was at pains to point out—it introduces a new offence of death by dangerous driving. Now, the Attorney General raised several points in the law. One of my colleagues later on will deal with those issues in the law. But there is one issue in this Bill that I would like to touch on and this has to do with clause 3. Clause 3 seeks to amend section 70 of the Act, which is, of course, Chap. 40:50 of the Motor Vehicles and Road Traffic Act. It seeks to increase the penalties for driving dangerously and while under the influence of alcohol or drugs.

Again, I am sure I heard this hon. Minister of Works and Transport talking about the introduction of a breathalyzer. I am pretty certain that I have heard that. The reason was, like again, in most progressive societies and nations around this world, there are now scientific criteria on which one determines the level of inebriation with which a driver is operating on the road. But here it is, the Government is saying that if you are drunk on the road, you could be charged and they are increasing the fine. We have no real problem with that, but what is the definition of drunkenness on the road? [*Desk thumping*] By what criteria will we determine that a driver is, indeed, under the influence of alcohol or any other substance?

I am sure you are aware that now one is able through relatively simple methods to determine the level of alcohol in a person's bloodstream—although I understand that some Members on the other side would have to find the blood in their alcohol stream—at the same time, one is able scientifically to measure this. And, indeed, I am not seeing anything in the legislation; I have not heard anything from the Member for Couva South to tell us that we are, indeed, advancing in our level of technology as it relates to drivers who may be under the influence, particularly, in the case of alcohol.

Mr. Deputy Speaker, where are we going? We are seeking to fill a lacuna in the law, but at the same time we are not using the tools that are available around the world to assist us to better manage this situation. In fact, I hope we will be using them. Again, we have to wait for the Minister to come and tell us whether or not he would be introducing these things. One assumes—because the Member for Couva South in fact, piloted the Bill—that the person who was piloting the Bill would tell us these things. So, forgive us if we are left without that particular information at this point in the debate. When the Hon. Minister is on his legs in this Chamber, we hope to hear of these wonderful advances in the use of this technology in this country. But until then, we wait, as it were, with bated breath to hear from him.

Mr. Deputy Speaker, I want to touch again also on the third Bill, the Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill, 1999. The net effect of all of this is to give effect to the point system in the first Bill; and to establish a system of Traffic Wardens for the purpose of assisting the police in connection with the control and regulation of road traffic and the enforcement of the law.

Mr. Deputy Speaker, in the Explanatory Note of this Bill, the Government points out:

“The proposed sections 86A, 86B and 86C, together, would establish a penalty point system for driving offences. Proposed section 86A, would empower the Licensing Authority to suspend a person’s driving permit where the person’s record as a driver or his conduct or habits as such, establishes that it would not be in the interest of public safety for him to hold a valid driving permit or to drive a motor vehicle.”

11.55 a.m.

Mr. Deputy Speaker, it goes on to say further that the proposed section 86B and 86C would empower the Licensing Authority to suspend the driving permits of persons with poor records of conduct under certain circumstances and to demand the surrender of the drivers’ permits of such persons. But in the bill, we are told that the President, whom I presume is the Minister; in this case, Cabinet via the Minister, will publish regulations, as a part of this Bill or the first Bill, which would tell us at what point these penalties will kick in. I have not found any regulations attached to this Bill or to the first Bill, which tell me what number of points, as it were, will determine whether we suspend or not.

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Indeed, in the legislation we talked about when you get to 50 per cent of the required amount, the driver's permit will be suspended, but we do not know what that is. We are being asked to vote into law, measures and we do not know what the measures are. Literally, as the colloquial saying goes, we are being asked to "take cat in bag". What are the criteria? There are no regulations attached to this. So we are voting on the principle of the thing. On the one hand, we are being told what some of the penalties are, the specific items, but we are not told what it all means, so at the end of the day, what have we done?

Is the Minister going to come at some later date and present regulations? There is a saying that I hear the lawyers talk about, "justice delayed is justice denied". If it is that we are talking about the carnage on the roads, we are talking about how urgently these laws are required, and we have taken a little over four years to finally prepare the legislation that comes to the Parliament, one would have thought that we would be getting the regulations that go along with this. But the House, as of now, is not advised as to what these regulations would be, which would suggest that it would be some time yet before this legislation is actually put into practice. That brings us to some other additional issues that surround the overall policy and philosophy of these Bills.

The question is this: Are we, at this time in our development, in a position such that we have the systems in place to give effect to this bundle of legislation? Do we, in fact, have the systems in place to expeditiously put in place a system of wardens? What are the criteria for engagement? What are the rules of engagement other than in the legislation where it speaks of them wearing a particular uniform that may be prescribed by the Police Commissioner? What are the terms and conditions? Who are these people going to be? Are they going to be paid? Is it a voluntary thing? Do we have people trained? Are we, in fact, training people to fill these posts? What systems do we have in place to cause these laws to come into effect?

As of this point in the debate, having heard the hon. Attorney General going to great lengths on the legal aspects of these Bills, the House is unaware; the nation, indeed, is unaware. Is this then just pie in the sky? Is this another ploy that is typical of this particular Government, of going for short-term political gains without having substance; all form and no substance? Why were we called here on this Monday morning to debate this legislation that is, obviously, quite premature? All we have heard is just the legal arguments, but we do not know how we are going to put these in place. What is the philosophy or the policy that surrounds this legislation?

Further, I am aware that in most developed countries a system of points is tied, for instance, to one's insurance rates.

[MR. SPEAKER *in the Chair*]

In the United States, Canada and other jurisdictions, as you collect points from traffic infractions there is a direct bearing on the rate of insurance that you pay; it goes up. There is then a yardstick, a measure of one's competence and safety habits on the road.

First of all, we have already established that the point system appears to be quite arbitrary. It does not stand up to reason, because offences that are quite serious attract points and penalties that are lesser than other offences which appear to be more serious and life threatening. But further, the hon. Attorney General was not able to tell us, and maybe he omitted to tell us, of the initiatives that would cause this point system to be linked to the very tangible issue of one's pocketbooks, other than the penalties that would come to the state, the penalty of attracting the interest of one's insurer. So we are left with some Bills which are attempting to emulate systems which exist elsewhere, with which we agree, but we are not putting in place the foundations, the systems, the things that would cause these Bills to have effect; the effect that is desirable, which is to say, increased safety on our roads.

Mr. Speaker, recently I was in another jurisdiction, as you are aware, and I was having dinner in an ordinary restaurant. It had a side room, as it were, a semi-private side room, and I observed in that room what I first thought was a party, as we would say in Trinidad and Tobago a "lime". A group of persons were having what appeared to me to be a good time. But then I listened—they were speaking very loudly so the sound was carrying, so one could not avoid hearing that they were discussing traffic regulations.

Then I focussed on the window outside and I saw that one of the vehicles parked in the parking lot was, indeed, a police vehicle. As time went on, it became apparent that the lady conducting the discussion was, indeed, a police officer. She was educating a group of persons in that room on the law of the road. It turned out that that group comprised persons who had accumulated a certain number of penalty points and in the particular jurisdiction they were required to attend something known as "driver's education". When one goes to driver's education and goes through a particular programme, the penalty points that one acquired up to that point are then erased and one goes back to where one was prior to that.

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The state, the city of whatever the jurisdiction is, would then have satisfied itself that it took a proactive measure to educate its citizens in a manner that would cause them to be safer on the roads, that would cause them to understand the error of their way but, at the same time, would allow them to remain on the roads and conduct their lives in their usual productive manner.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mrs. Robinson-Regis*]

Question put and agreed to.

Mr. E. Williams: Mr. Speaker, I thank you and Members for the extension of my time.

As I was saying, those jurisdictions have adopted what appears to me to be a proactive measure of education of the drivers. I listened to the hon. Attorney General in his presentation and on all of the laws. All that is contained in this legislation is penalty after penalty after penalty. In other words, the only way Trinidadians will ever learn to drive properly on the roads is if we penalize them; penalty, penalty, penalty. What about the introduction of a programme of driver's education in this nation? [*Desk thumping*] We would call for that.

But no, all we are hearing from the Government is, "Go to jail or pay the fine, and hang." Well, that is another one, "hang dem", yes. In fact, then they used to say, "Do not hang them!" Now, it is, "Hang them!" This is all we are faced with. What about educating our populace? I would want to hear the Minister of Education, for instance. What about the introduction of drivers' education for teenagers in the high school before they come out on to the road? [*Desk thumping*]

This Government wants to talk about quality nation. They use all of these terms which come from Covey and others. They talk the talk, "We want a quality nation; we want a this or that!" But they do not seem to be prepared to do the foundational things that are required; the first things first! [*Desk thumping*] Member for Couva North, first things first, that will take us to the level of a quality nation.

Indeed, if one were to link the education system with this particular system and with the insurance industry, we would have an opportunity, indeed, to change the very culture of the drivers on the roads in our nation.

12.10 p.m.

Mr. Speaker, it seems to me that at this point in the debate—having only heard the Member for Couva South—the Government is not taking the opportunity to take us to a higher level of being. Indeed, all we are doing is just putting more laws on the books. As I pointed out, in various parts of the Bill there appear, at this time, to be some significant defects.

Mr. Speaker, all I can say is that we await the response of the Government to these issues, and there may be others. We await an education as to the policies and the philosophy behind these Bills. We await a description of the systems that ought to be put in place, to give proper effect to these pieces of legislation. We again want to put on the record, that we are not unfamiliar with the legislation and, therefore, in the broadest sense, we agree with the purport and the intent. But, as with everything that this Government seems to put its hand on, we are very wary of what is not said because we may be just putting, as I said, laws on the books which will go nowhere. We will hear about it on a platform somewhere and that will be the end of that, we would still have the carnage on the roads.

Again, Mr. Speaker, I thank you and with those few words, I take my seat.
[Desk thumping]

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, I rise to support measures in these three Bills to amend the Motor Vehicles and Road Traffic Act (Dangerous Driving) Chap. 48:50; to amend the Motor Vehicles and Road Traffic Act (Penalty Point System and Traffic Wardens) Chap. 48:50, and to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52. I noted the Member for Port of Spain South claiming these Bills to be in an advanced stage when they left office. I really did not plan to give him a list of the things that were in an advanced stage when they left office, but I could tell you that one in an extremely advanced stage was the highway from Point Fortin to San Fernando. They actually turned the sod on January 17, 1957 [Laughter] and promised completion in two and one half years. We are waiting.

Mr. Speaker, in 1967 completed plans and model for the Uriah Butler/Churchill Roosevelt Highway—advanced stage of preparation. With respect to the Cross Crossing interchange, the distinguished Leader of the Opposition claimed advanced stage as Parliamentary Secretary in the Ministry of Works and Transport for taking to Cabinet the plans for the construction of the Cross Crossing interchange—[Interruption] 1978.

I could really list them by the hundreds with evidence of the advanced stage of preparation. [Interruption]

Hon. Members: List them we are here for the whole day.

Mr. Speaker: Order please!

Sen. The Hon. S. Baksh: Mr. Speaker, we could go on and on with all those things at an advanced stage, I am sure, in every ministry.

Mr. Speaker, in the case of the Dangerous Driving Bill the goals are two fold: to create the offence of causing death by dangerous driving; and to replace the current offence, under the Act, of reckless and dangerous driving and replace it with the more immediate offence of dangerous driving: an offence for which there is a lower standard of proof, resulting in easier conviction.

In the case of the Motor Vehicles and Road Traffic (Amdt.) Bills, these introduce amendments of the Motor Vehicles and Road Traffic Act Chap. 48:50 in order to give full legislative effect to the penalty point system and to give effect to a system of traffic wardens for the purpose of assisting the police in the control and regulation of road traffic and enforcement of traffic laws.

In the case of the Enforcement and Administration (Amdt.) Bill, this deals with the strengthening of the current system by which fixed penalty notices are given for certain traffic offences by:

- (1) eliminating the need for a complaint to be made after the issue of a contravention notice under the Act—*[Interruption]*

Mr. Beraux: Mr. Speaker, on a point of order.

Mr. Speaker: Which one is it?

Mr. Beraux: It is 33(6), Mr. Speaker.

Mr. Speaker: All right. Order 33(6) talks about reading extracts from written or printed papers. Overruled, please continue.

Sen. The Hon. Sadiq Baksh: Thank you, Mr. Speaker.

- (2) deeming the fixed penalty notice as a complaint under the Summary Courts Act;
- (3) further deeming the notice of unpaid fines within the specified time, to be a summons for the purpose of the Summary Courts Act; and
- (4) providing for a refund of a ticket, if a person pays the fine and appeals successfully against the related charge.

Mr. Speaker, the Ministry of Works and Transport, as the Ministry with responsibility for road traffic, is concerned not only with the introduction of the new laws, but the institutional strengthening of present legislation in order to ensure that proper—*[Interruption]*

Mr. Breaux: Mr. Speaker, on a point of order.

Mr. Speaker: May I inquire? Please sit! May I inquire which is the point of order you are on? May I ask you which one it is?

Mr. Breaux: It is 33(6), you misread it, Mr. Speaker. I am trying to assist you.

Mr. Speaker: Please sit!

Mr. Breaux: You misread it.

Mr. Speaker: I have not misread 33(6) for your information. I am the judge of that. I have not misread it and I ruled that it is not a point of order. I ruled that the Member is entitled to read extracts. That is what I said and that is my ruling. You are not permitted to question my ruling. It is not done. That is in the same book to which you are referring.

Mr. Breaux: I am not questioning you.

Mr. Speaker: Well, what you just did is you just questioned whether I was right. You told me that—*[Interruption]* one second. You have indicated that I have misread. I have not misread. Please proceed.

Sen. The Hon. S. Baksh: Mr. Speaker, as far back as 1993, we recognized a number of problems associated with this particular legislation and the proportionate increase in the road network. The police service was soon becoming overburdened. Not only were the police spending more time on the roads handling traffic offences, they were also spending more time tied up in the Magistrates' Courts handling traffic offences and they, in fact, needed to be out fighting crime instead.

The concept of the traffic warden system was first given approval a long time ago, in fact in the early 1990s. It was recommended that the use of traffic wardens would assist in freeing up police in addressing the fight against crime; traffic wardens would be more appropriately the responsibility of the Ministry of Works and Transport rather than the Ministry of National Security given its responsibility for transport and the experience in traffic management affairs; and traffic wardens would be given the responsibility for the enforcement of lower levels of offences that police officers and licensing officers, such as parking violations and the direction of traffic.

12.20 p.m.

Pursuant to Cabinet's decision in principle, an inter-ministerial committee was established for traffic wardens as far back as 1996. Its terms of reference were to:

- examine and prepare recommendations for traffic wardens and the introduction of the system, and in particular to examine the issues concerned in ensuring the system's effectiveness.
- recommend the appropriate status and remuneration of traffic wardens.
- determine the duties of traffic wardens.
- devise an implementation programme including recruitment, training and supervision.
- identify any legal or administrative issues in relation to the proposed traffic warden system and recommendations for their solving.

Mr. Speaker, this report and this committee comprised members from the Ministry of National Security, Ministry of Works and Transport, the Licensing Authority, the Traffic Management Branch and the police service. In the committee's final report to Cabinet, the following recommendations were made in which certain elements formed part of the legislative package placed before the House today.

Mr. Speaker, among the elements which formed part of the legislative package today are:

1. that the traffic warden system be operated by the Ministry of Works and Transport with the primary purpose of easing the manpower and responsibilities of the police service.
2. the legislative amendments be put in place in order to enable traffic wardens to do such things as issue tickets and effect summons.
3. that the host of traffic wardens should be held in the highest esteem of the public.
4. that the system be initially operated as a pilot project in Port of Spain to be eventually spread to other cities and boroughs.
5. that traffic wardens be hired on contract with terms to be determined by the chief personnel officer.

Mr. Speaker, it also stated that the duties of traffic wardens should be as follows:

- (a) to improve the traffic flows by directing of traffic.
- (b) the prosecution of standing violations, that is illegal parking and breach of traffic signs and signals.
- (c) administration of the Maxi Taxi Act.
- (d) other legislation regarding the operation of public service vehicles.

Mr. Speaker, it further stated that traffic wardens were to be trained in the following skills:

- (a) law of evidence
- (b) taking of the oath
- (c) traffic laws, in particular reference to their duty and the writing up of pocket diaries.
- (d) the preparation of reports and files.
- (e) powers of arrest.
- (f) training of basic foot skills.
- (g) the preparation of fixed penalty tickets.

Mr. Speaker, once the traffic warden system is given legal status, a project management team comprising technocrats from the Ministry of Works and Transport and members from the police service shall monitor this system as we introduce it in the pilot area of Port of Spain before implementation in other areas of Trinidad and Tobago. As previously indicated, one of the duties prescribed shall be the handing out of fixed penalty tickets.

The inter-ministerial committee in the course of its deliberations, came to the realization that amendments to the present system by which tickets are given for traffic offences were needed.

1. In actual fact, the revamping of the ticket system and the introduction of a penalty point system was approved by Cabinet.
2. The ticket system was first introduced by way of the promulgation of the Motor Vehicle and Road Traffic (Enforcement and Administration) Act in 1978 with the following objectives in mind:
 - to reduce the burdens on the port in determining the multiplicity of traffic offences.

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- to divert some of the efforts of the enforcing officers from serving summons and attending court to more productive activities in their war against crime; and
- to avoid time wastage by citizens by allowing them the ability to pay their fines rather than attend court.

Mr. Speaker, since the Act's introduction, several deficiencies have come to light. Among these deficiencies are:

1. the Act in its present structure only allows for tickets to be served on the registered owner of a vehicle.

Mr. Speaker: Because of the constant utterances from the Member for Laventille East/Morvant and the very ungallant utterance of the Member for Diego Martin West, may I refer you to pages 365 and 366 of *Mays Parliamentary Procedure and Practice*. It may help you.

Please proceed.

Sen. The Hon. S. Baksh: Mr. Speaker, the Act in its present structure only allows for tickets to be served on the registered owner of a vehicle. This makes no allowance for persons owning vehicles by way of hire purchase agreements or owning a vehicle by virtue of the actual owner being out of the country.

2. the Act presently provides that motorists may pay ticket fines at the port, warden's offices, or licensing office.

As stated by the Attorney General, this system became very difficult to be able to monitor without the type of information system that we now have in Trinidad and Tobago.

Mr. Speaker, where offenders are issued tickets and pay their fines, we do not have any record or mechanism in place presently to have the records of those convictions against the individuals involved. Some of the offences currently deemed ticketable, for example, speeding and dangerous driving offences, were more appropriately punishable by suspension of driving privileges and imprisonment. At present, offenders simply pay fines and continue to be permitted to drive, putting innocent persons at risk.

The payment of fines for tickets shall now become more streamlined leading to less of the back-up of cases in the courts. Better records of a person's driving history, together with any convictions shall be kept at the Licensing Authority. Increases have been made in the tickets and fines for certain offences while other more serious traffic offences are now punishable by way of the ultimate suspension of driving privileges.

Mr. Speaker, the penalty point system is not a new concept. It was first introduced—

Mr. Valley: Mr. Speaker, I am not finding the reference to the appropriate reference that you referred us to.

Mr. Speaker: You know perfectly well that is not the way you address me. If someone is on his feet, you may ask him to give way to deal with an issue, but you do not ask him to try to embarrass me. You do not do that. What are you doing?

Mr. Valley: Mr. Speaker, this was not my intent.

Mr. Speaker: I referred to both yourself and the Member for Laventille East/Morvant who were making certain utterances which had the effect of disturbing me and I simply indicated that if you look at a certain page you would see certain things. The first thing that I would point out is that you are not using the same edition I am using, that is the first point. I could just look at it and realize you are not using the same edition, but even if you were, you know perfectly well, as Opposition Chief Whip, that is not the way you deal with it unless you are trying to be funny.

Please continue.

Sen. The Hon. S. Baksh: Mr. Speaker, the system that allowed a specified number of points toward each conviction and enabled the courts and the Transport Division to keep records of individual driving records worked only as long as the old one-year driving permit published in book form was the preferred form of the permit.

With the introduction of the three-year laminated permit, the point system fell into disuse and we needed a proper information system to be able to carry out those records. With the continued rise in the carnage on the roads of Trinidad and Tobago, we needed to reintroduce a system that will, in fact, discourage bad driving on the roads of Trinidad and Tobago.

Like the previous system, once a motorist is convicted or pays a fine in relation to an offence for which points are assigned, the Licensing Authority shall record the number of points associated with the offence against the driving permit of the offender.

Mr. Speaker, when the amount of penalty points reach a certain number, the driving permit shall be suspended for a certain period. Persons who repeatedly have their permits suspended, shall ultimately have their permits automatically revoked.

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Motorists who accumulate points and then manage not to acquire further points for a period of three years after the last date of accumulation will have those points removed from their records.

Mr. Speaker: Hon. Members, the sitting is suspended for the lunch break until 2.00 p.m.

12.32 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed:*

Sen. The Hon. S. Baksh: Mr. Speaker, while the points that we were speaking about were awarded for particular offences, the monetary value of the fixed penalty notice issued in each case, has also been increased. The points system is designed to protect children, pedestrians and careful drivers from these accident prone or negligent drivers who continually abuse the privilege of driving a motor vehicle.

The continued carnage on our nation's roads is caused by motorists who cannot or will not observe the rules of common-sense driving. The points system, in its new form, is intended to detect and weed out those chronic offenders, and either have them improve their driving skills or removed from the roads of Trinidad and Tobago. We cannot continue to allow these drivers to create the type of situation of continuous accidents and the loss of innocent lives on the roads of Trinidad and Tobago.

The Government's ongoing effort is to ensure maximum road safety, and these three Bills will assist in this direction. As I have indicated, we have tackled motor vehicular and road traffic safety from the following angles:

- The magistracy: enabling the courts to dispense justice more efficiently against bad drivers.
- Enforcement: by supplementing the police with traffic wardens, so as to allow more police to be on the roads of Trinidad and Tobago.
- Punitive measures: by increasing fines, especially targeting repeat offenders who continually flout our traffic laws either inadvertently, or by malice.

Upon passage of these Bills, the Government's next major legislative road safety work, in fact which was approved by Cabinet Note No. 1828 of 1999, has approved the drafting of the Motor Vehicles and Road Traffic (Amdt.) Bill that empowers police to demand samples of breath, and in certain cases, samples of blood from persons suspected to be under the influence of alcohol. This Bill is being sent to the Ministry of Works and Transport for additional comments. We expect to lay this Bill in Parliament at no distant date from now.

The amendment of the Motor Vehicles and Road Traffic Act shall enable policemen and licensing officers to demand and to continue to try their best to increase road safety on the roads of Trinidad and Tobago. The Ministry of Works and Transport is in the final consultation with the police service and the Ministry of National Security and other major stakeholders, to ensure that the breathalyser legislation be laid in a form that shall be readily administered and satisfies all the legal and constitutional requirements.

I urge all Members of this honourable House to support this measure, to ensure that we play our part in reducing road accidents in Trinidad and Tobago.

I thank you very much.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, thank you very kindly. I, too, noted the fact that the Attorney General piloted this legislation. Granted there is a significant element of legal technicalities, I agree entirely with my friend, the Member for Port of Spain South, when he suggested that it was rather expected that the Minister of Works and Transport, the Minister who has just completed his thorough reading of a prepared text, in breach of the Standing Orders of this honourable House—*[Interruption]*

Mr. Speaker: It is not permissible for the Member to do anything which amounts to questioning a decision I have made. I am just indicating, it is not permissible for a Member to do anything which amounts to questioning a decision I have made.

The issue was raised by the Member for La Brea that there was a breach of the Standing Orders. I ruled on it. He got up again and said, “I had not dealt with it.” I ruled on it. There were utterances from yourself and the Member for Diego Martin Central. I pointed to certain things, and for you to say now, in the face of my ruling, that he was in breach of the Standing Orders, which I ruled on, is improper. I ask you, please, do not go along that line because if you do, I would be forced to ask you to take your seat. Please.

Mr. F. Hinds: Mr. Speaker, I want to make it abundantly clear that it was not my intention—and I am surprised that you would interpret my words to have been—

Mr. Speaker: Again, Member, please. You have said certain things, I have interpreted it in a certain way. I have asked you, please, to move away from that. I am literally begging you to move away from that.

Mr. F. Hinds: As I was saying, Mr. Speaker, the Minister of Works and Transport spoke a moment ago and began his very unimpressive contribution by criticizing the People's National Movement as a party that spent X number of years—34 years in Government—and falsely claimed that the PNM had a track record of having things in the pipeline, or words to that effect; legislation and other projects in an advanced state of completion, and implying falsely and wrongly that the PNM did not complete anything.

I would interpret that—and of course, I am not as good as interpreting as you, Mr. Speaker—as mere small and political talk. This is not the place for that. This is the Parliament, and we are here to debate three important pieces of legislation. But since he raised it, I want to remind that very Minister that he took office four-plus years ago. He embarked upon a project to make better the Solomon Hochoy Highway. He messed it up, in our humble view, and finally abandoned the project, after great loss and confusion in this land. And he speaks about an advanced state of completion. He should be the last to speak of that.

2.10 p.m.

At any rate, Mr. Speaker, the Attorney General piloted these pieces of legislation and we are here, we will deal with them. The Minister indicated that the purpose of these three pieces of legislation, at least the sole purpose, was to, as he put it, root out chronic bad drivers from the driving system on our roads and to improve their driving. As he said that I was startled because neither the Minister nor the Attorney General who spoke earlier and piloted this legislation told us about any programme designed to improve driving skills once a person was found guilty of any driving offence. All we heard of is that which now exists, a situation where a person could be fined, there could be a tally of points awarded to him over the period of time; and the word, “award”, is very strange.

I would interpret award in terms of—when someone is awarded something it sounds to me like a benefit, a boon, where someone is given something for some kind of positive achievement. However, we use the language of award here and we will accept it. Persons could be fined, could be awarded points and after a while they could lose their driving permits. If a person is suspended from driving now he may be suspended for a six-month period or for a year as the court might see fit. I do not know of any programme that is in place, during that period of suspension, that is designed to make him a better driver before he comes back into the system, and I heard nothing of that today. So I would like the hon. Attorney General, when he winds up, to tell us, how does the concept of improved driving come about on the basis of what he and the Minister of Works and Transport have said in this debate? Maybe it escaped them but now that I raised it in particular, I hope they would address that.

Mr. Speaker, the Attorney General correctly reminded us that a ticket system was implemented in this country some years ago and it is fraught with problems. As it stands today, when a person is issued with a ticket, if he or she does not make good the fixed penalty, that ticket is immediately and automatically transformed into a complaint, then he has to be summoned and then he comes to court to answer the charge for which he did not pay the fixed penalty.

Inside of that system there is a lot of bureaucracy, a lot of administrative difficulty and oftentimes, as the Attorney General reminded us, because the police would be operating on the basis of the records at the Licensing Office, that is to say the certified copy from which they would have gotten the name and address of the registered owner of the vehicle, the registered owner of the vehicle may not be living at the registered address, though we know he has a duty to inform the Licensing Office. Altogether, the system is not working very well and many times the summons never gets to the registered owner.

After a period of time, with thousands and thousands of these types of cases piling up, the courts, in an effort to ease the burden of the system, are quite willing and, in fact, often dismiss some of these cases. The police officers working within the system lose heart, they become fed up as it were, and the system breaks down. So that, it is easy for offenders to stick it out. With time on their side they could evade the summons almost inevitably and, after a period of time, it falls by the wayside and the law is made a mockery of in our country once again. That, however, is not the only case of the law being made a mockery of. I consider the piloting of this legislation, in a sense, to be making a mockery of law in this country and I will justify that perhaps very strong comment.

The Minister pointed out that this legislation was ready and largely drafted, in an advanced state of preparation, in as early as 1996. We did not bring this legislation to Parliament. I am advised, I was not involved at the time, that the effort was to ensure that the administrative elements were put in place. The Attorney General told us in his closing remarks earlier today that the purpose of these laws is to create the appropriate legal structure, the legal framework, to give effect to the policy decisions that they have taken in this legislation. But the Attorney General knows quite well that law does not operate in a vacuum. Law is a very social concept and, in practice, it has to do with how we live.

How we implement laws, therefore, Mr. Speaker, is very, very important. If we take pattern from what is happening in Canada, the United States and other jurisdictions, in our ambition to become more advanced and to develop, in our ambition to deal with some of the traffic offences that take place on our nation's

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roads, before we do that, we have to be certain that we are able to deliver the goods, if I may be permitted that metaphor. I am fearful that yet again the Government is bringing legislation to this House in light of the fact that Trinidad and Tobago, in particular the governing body, the Licensing Authority of Trinidad and Tobago, is perhaps at this time simply incapable of delivering these goods. Because it appears that the legislation that is now before us, from the way the Attorney General presented it, is quite simple. It appears as though it is no big problem and easy to implement.

I remember the Minister of Legal Affairs coming here with the Legal Aid and Advice Bill last year. I said it before. I remember the UNC and the Government of the UNC running around to the press and getting a lot of coverage for the good they have done to improve the legal aid system in this country, the importance that had in respect of the administration of justice. It took a parliamentary question from the Member for Laventille East about two months ago in this House to draw the Attorney General out for him to come to tell us, “Yes, we admit that we got a lot of benefit from having put in place this legal aid and advice legislation, but we have not yet made the moneys available to pay the price”.

This is the trend of the Government. They come with much hoo-ha and fanfare and they win some cheap political points in the national consciousness, for those who are unaware. However, at the end of the day, the Legal Aid and Advice Act, as we passed it in this Parliament, has not yet been implemented. It has not yet been put into effect, proclaimed. So that when he answered the question earlier, he promised categorically that from the end of March, March 31, he was to ensure that Cabinet will make the necessary—they say it would cost about \$10 million; \$9 point something million to implement the changes of that legislation. To this date, no.

I want the Attorney General to know that only today, as we speak, lawyers who give assistance and advice under the legal aid system are refusing to do so in today’s sittings of the various courts. They have refused because the UNC Government has not kept faith. It has not kept its word. I suspect similarly this is what is happening with this legislation, because the Attorney General and the Minister of Works and Transport, at least, must be aware that the situation at the Licensing Office is near chaotic, and I am not exaggerating. This is not a case of mere hyperbole; it is true. I have personal knowledge of the fact in my private practice.

There are persons who have gone to the Licensing Office and obtained certified copies, stamped and signed by the appropriate Transport Commissioner only to discover, Mr. Speaker, that those documents are bogus and cannot be trusted. That is a reality. So that the legislation we bring to the House today requires a significant application of information technology in order to work it. The very computers in the Licensing Office today, which are generating certified copies on the basis of information put into those computers, cannot be trusted. People can no longer go to the Licensing Office and be sure that an official document of the Licensing Office is a trustworthy and genuine document. That, I say, reflects the ethic and the ethos of the UNC as a Government. [*Desk thumping*] That typifies the UNC more than anything else. It is all a facade. It is all to look good and to sound impressive and, at the end of the day, there is no substance or truth to it.

For example, the Prime Minister this weekend, Mr. Speaker, told us—he had previously said that the Member for Caroni East will deliver water to every house in this country and, if he does not, he will not run for elections again. That was a categorical statement made by the Prime Minister of this country. He went on Saturday, realizing that he will not be able to deliver—and he has had strong support from the Member of whom I spoke. He said, and I want to paraphrase him, Mr. Speaker, with your leave, effectively, “Well yes, water is flowing in every tap so he would not have to go again”.

However, you know, I am told that often in the very Prime Minister’s residence they must take delivery of truck-borne water. I can bear personal testimony to the fact that water does not only and always flow in my taps. So that it is, again, a facade intended to fool people. [*Desk thumping*] When the Prime Minister realized that it might have cost him the Member for Caroni East, whom he holds very dear because he was a part of the InnCogen arrangement, purportedly to make Trinidad and Tobago better—it left us with a huge bill, \$300 and something million, two take or pay contracts and electricity that Trinidad and Tobago does not need, so he has to keep the Member for Caroni East very close to him.

I was talking about these Bills, Mr. Speaker, and I fear that they too are a facade designed to sound good and to tell the people of Trinidad and Tobago that, “We are working well”. You see on the highway of which I spoke, because we are talking about driving improvements and I will deal with it because the road network is critical if we are talking about improving driving on our nation’s roads and implementing traffic wardens and all of that. [*Interruption*] That is right. That is important, very important, but we will come back to that.

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Mr. Speaker, the Government must be aware that today the Licensing Office is unable to cope accurately and correctly with the burdens with which it is faced. Look at the foreign used vehicles. I know of a particular case where, on a given day a motor vehicle was failed and described as road unworthy by the Licensing Office in Port of Spain and the vendor of the vehicle, a recognized car dealer in foreign used cars, took the potential purchaser of the vehicle to the San Fernando branch of the Licensing Office where it was passed on that very day. Port of Spain discovered that the vehicle was hooked on, front and back, two halves welded together and, therefore, dangerous and unroadworthy.

This Government, Mr. Speaker, permitted wantonly the importation and use of these foreign used vehicles in the face of strong objection from the PNM, Members of this House on this side. They went ahead. We told them that it created an opportunity for money laundering. We told them that it was fraught with danger on the road. Cars have had accidents and have fallen apart, split. They did not listen. They rammed it through this House. It did not require a special majority and on they went. In the morning Port of Spain refused it; in the afternoon San Fernando passed it. That is what is happening in our Licensing Offices.

2.25 p.m.

The fellow who bought the motor vehicle unwittingly had an accident and went to redo his car, only to discover that it was joined on. He now wants to recover his money and it is late. Four years have passed. I have encouraged him and told him that he should direct his writ to the Transport Commissioner and the appropriate Minister and it will be coming as night follows day.

Mr. Speaker, there is a situation on the roads where you see a vehicle registration No. PBG—the most up-to-date registration in the country, but the vehicle is probably 20 years old. It is all a UNC mas. This typifies the UNC, everything looks good on the face but it is rotten and horrible on the inside. *[Interruption]* Yes, like the old—as we call them—UNC buses. Those little orange buses in the UNC colours that run up and down the corridor polluting the atmosphere and killing people; “bussing us” up at \$41,000 per piece—British rubbish somebody dumped here and they squandered money doing it and the Government laughs at us and their friends laugh their way to the banks, but we will hear more about that.

Mr. Speaker, with all of the Attorney General’s legal acumen, the fact that he is Senior Counsel—gave himself that—I want to tell him frankly that putting a legal structure in place in respect of these matters simply cannot be good enough.

The system, I suspect, cannot cope with this. I want to be more specific. My friend from Port of Spain South dealt with some specific elements; I propose to do the same.

In this world, we operate a system of punishment and reward. So a man violates the traffic code and he is to be punished. There has to be some kind of incentive to permit him to correct the error of his ways when, of course, there is the human factor involved—he, as driver.

Mr. Speaker, where are we going with the point system? Is it the case that a person is found guilty of a traffic violation; he is fined and he is awarded—to use the UNC term—some points? That, too, is a trick, coming to think of it, a person may feel that one is awarded some points. You know there are people in this society who would go out there and do things to try to be awarded. *[Interruption]* Yes, it is as bad as that. When little do they know it is a punishment, but the UNC call it “awarded”. Anyway, he is awarded points and he pays his fine and he has now awarded 30 points. He commits another traffic violation and he has paid a fine as well and he is awarded another 30 points.

Mr. Speaker, as we stand today in this debate, we do not know whether 100 or 200 points would lead to the loss of his permit. We are promised that it would come by way of regulations later. That may be next year when we are in Government. *[Desk thumping]* It may be left to us to do it, because chances are they have come here with regulations months after passing Bills, but as we debate today, the public is none the wiser whether 80 points could cause the loss of one’s driving permit or 100 points. The Government may say that is not important because one ought not to be awarded any points in the first place, but invariably, people commit breaches of the traffic codes. *[Interruption]* I am being asked how many points would be awarded if one were driving on the shoulder under the influence of alcohol. *[Interruption]* All of that.

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker, we ought to know, because driving is not only a matter of pleasure as it is for some. As you well know driving is a serious business; driving a car on the road is a form of livelihood for thousands of our citizens; and the loss of a driver’s licence, in many cases, means the loss of the only income to that family and various families. So, today, the Government wants us to pass and approve this legislation and to support it and we do not know exactly what it means for our constituents and for the citizens of this country, in general.

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In addition to this, it appears as though on the present structure proposed by the Government, all that could happen is that over a period of time, one accumulates these points; one is awarded more and more of these points. Where do we go from there? The point is, all he stands to do is to accumulate more of these points, eventually leading to the loss of his permit. *[Interruption]* The question is when? But also, is there a system in place where these points can be erased over a period of time? That is the kind of reward I am contemplating.

If a man keeps a clean record—even in criminal cases, if a man keeps good behaviour for a certain period of time, the court takes that into account as it passes sentence, if many years later he runs afoul of the law again. In the United Kingdom—I know we do not have it yet, I rather suspect not—there is a Rehabilitation of Offenders Act, where after 10 years, in respect of certain offences, one can have those convictions erased from one's record. Here we have a system of pardon chaired by, I think, the Minister of National Security, and one can petition that committee headed by him, and one can have convictions erased, but nothing as systematic as the Rehabilitation of Offenders Act, of which I just spoke, in England.

Mr. Deputy Speaker, based on what the Attorney General has said with all of his legalistic acumen, and the very weak presentation of the Minister of Works and Transport, we are none the wiser as to whether there is a road of reward; or whether there is a reward of return for persons having accumulated a certain number of points over a period of time. I would like the Attorney General to tell us something about that, at least, in his closing remarks.

Mr. Deputy Speaker, I took note of the contrast between the Member for Couva North and the Member for Couva South, when the Member for Couva North was here, and no doubt you would take note yourself. Yes, the Attorney General looks at me in a perplexed manner. The Minister is gone. He has gone to campaign somewhere; he has gone to assist the UNC in being in Government again, and this is a Bill that concerns the Ministry of Works and Transport. *[Desk thumping]* The Minister does not even take the time to be here to hear what we are saying and we consider this not to be an insult to us—we are accustomed to this—but an insult to the people we represent and to the country. The Minister has gone about his business. *[Desk thumping]*. The Minister did not even take time and the trouble to study the Bill properly and to pilot it, because while the Minister enjoys his ministerial pay, he is spending his days in a cold room in Rienzi Complex wanting to trick the people of Trinidad and Tobago again at our expense. Man appoints but God disappoints. We are waiting for them.

Mr. Deputy Speaker, I want like my friend, the Member for Port of Spain South, at the First Schedule—*[Interruption]* The Government does not care about the people of this country. They are a bunch of pretenders. At offence No. 11, “Unauthorized letters and figures on vehicle”. I wonder what that means. It is quite common now to see at the back of many vehicles, words written across the rear windscreen. It has become a bit of a fad in the country. In the maxi taxis they all have a name. No longer is the registration number good enough. They all have their own name, whether it is—there are names on maxi taxis. I cannot remember any now, but there are things written on the back glass. I am sure that some of these words affect their ability to see through those rear windscreens.

2.35 p.m.

I suspect that this is what this “unauthorised letters and figures” is all about. I do not know if it means only on the windscreens or otherwise, whether it is speaking about offences, for example, if someone—well, no this is not possible because no one can change the registration legally or properly. I mean, it is an offence to place the wrong registration number on a vehicle; that is in itself an offence. So I do not know if unauthorized letters could probably mean if someone takes a private vehicle and put “2TTR100” on it. That is an offence quite apart from the offence contemplated here, so it cannot be that.

Perhaps, if someone marks “police” on a vehicle, those would be unauthorized letters, an unauthorized word. I do not know if that is what this contemplates. I would like some kind of explanation, and I hope that I am not to be told that I am so ignorant and I did not read the Bill. I courteously ask for an explanation of what that represents, for the benefit of the people we serve.

Mr. Deputy Speaker, in No. 20 there is the offence of “Failing to keep vehicle left on road”. Well, that is a lot more self-explanatory, but the Minister of Works and Transport, as I said earlier—and he is not here, he does not care, he has gone, maybe to have a meeting with Rodney Charles or James Carvelle. *[Laughter]* But you know, Mr. Deputy Speaker, often times I am driving my vehicle on the road and I have to come off of the left side of the road and go entirely on the right side because of potholes. The state of the road demands that I go on the right hand side. If I were to be charged with the offence of failing to keep my vehicle on the left, anytime between 1995 and the year 2000, when they depart ignominiously from office, I would blame the UNC full square for that, because the Minister of Works and Transport has palpably failed, flopped, on the Solomon Hochoy Highway.

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I noted as I drove by that there used to be a sign, "Your Tax Dollar at Work." The sign and all is now gone! They have even taken down the sign, shamefully. I know now that my tax dollar is at work to pay advisors to win the next election, to come back around to take more of my tax dollars; but we are watching and the people in this country are not sleeping.

At any rate, if a man is charged for failing to keep his vehicle on the left and his defence is that there were significantly deep potholes that caused him to go over on the right, what is the court to say? We cannot predict what a magistrate or judge would say, but we know as a fact, if we accept that hypothesis, that there is a contribution to that made by the Ministry of Works and Transport which is responsible for paving roads.

It will not surprise me if the Attorney General or another speaker on that side gets up today to tell us that we are talking now about potholes and it is we who have all those potholes there for 30 years. Again, I will have to tell them, that if we built all the roads in this country, the Hochoy Highway, the Priority Bus Route and the highways and byways, and 34 years later potholes develop and they need maintenance, and you having negotiated your way into government, happen to be in government, it is your responsibility to fill the potholes and make the roads smooth. Not even that you could do! Comlysa Lain could tell us more.

We have heard in this House where certain demands were made of contractors for certain swing backs and because they did not get them, relationship broke; we understand that. So I do not want to hear them coming to tell me about, "PNM didn't fix potholes," we made the roads; we made the highways; we built the schools. If the school want a coat of paint now, paint it; and the money is about. The economy is stronger now than it ever was, according to them. But in all cases, lawyers are now advising people, "If you have an accident on the road and the pothole was, to some extent, responsible, the Government of Trinidad and Tobago must be joined as a third party in the litigation." Let them spend some money in that way.

When we go to No. 23 it speaks about the offence of "Improper overtaking on the right and cutting in". Well, at No. 21 first it talks about "Improper overtaking on the left side of the road". I thought that overtaking on the left side of the road was, in itself, offensive to the traffic code, and the use of the word "improper" before it, to me, is superfluous. I do not understand and I ask if an explanation could be given for that. Legislation ought to be user-friendly. The people, including parliamentarians, as we debate legislation, must understand. I would like some kind of explanation as to what the word "improper" means in those circumstances. Does it mean driving up on the shoulder, as one Member of the Government is reported to have done; I do not know, I would like an explanation.

Mr. Deputy Speaker, No. 43, “Use of vehicles with defective tyres”; well, I have already given an indication of a vehicle that was, and still is, on the roads of this country, that is now known to be certified defective by the Port of Spain branch of the Licensing Authority. We are now moving headlong into a situation like England, because when they piloted that legislation they told us in England it was no longer a central government authority. There was the Ministry of Transport certificates given. They had private garages and they were certified. We have now embarked on this illustrious project of certifying private garages so that they could test vehicles for roadworthiness.

In this land, under the UNC Government, that is a frightening thought. It leaves so much opportunity for corruption and scandal in this country. I am not saying that the UNC, in all cases, created corruption. I simply say that they appear to have mastered it. I simply say that they have created an environment that makes corruption flourish. When corruption may have been the exception, it appears now in Trinidad and Tobago to be the rule. When one thinks of the Licensing Office, every citizen of this country knows that that is a hot bed of that kind of activity. This is why we need to proceed cautiously in terms of these proposals for improvement.

So we are talking about defective tyres, but there are defective vehicles on the road; significantly defective. There is also the offence, created in this legislation, of driving vehicles that the owner knows to be defective. Yes, in the second of these Bills, the Motor Vehicles and Road Traffic (No. 2) Bill in clause 5(3), 71B(1), an amendment to that states:

“(2) A person is also to be regarded as driving dangerously for the purposes of sections 71 and 71A if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.”

Now, that sounds glib and beautiful, but many young persons in this country when they attain the age of 18 years—at 17 years they would have obtained their driver's permit and then a parent, those that could afford it, may purchase a vehicle for the young man as he attains his 18th birthday or some such thing. He gets his driver's licence and gets a vehicle shortly after that: you get a licence, you want to buy a vehicle.

He will be deemed to be a competent and careful driver having just had his driver's licence. If he obtains a vehicle, which he buys—if he buys a second-hand vehicle, he has it certified proper and fit by the Licensing Authority, in the

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example I gave earlier, a living case: how is he to know that the vehicle is inherently defective, when he has to rely on some competent person to tell him so? And especially now with a system where, I have no doubt, that many of their friends would have been given certification to establish these garages around the country; part of the patronage to win their favour for the next elections.

So the vehicle is certified fit by them and the offence is, I read again:

“(2) A person is also to be regarded as driving dangerously...”

So the offence is driving dangerously.

“for the purposes of sections 71 and 71A if it would be obvious...”

“If it would be obvious”, imports an objective concept where the court or the tribunal looks objectively to see whether a competent and careful driver would have known that driving the vehicle in its current state would be dangerous: that is a serious thing. It says further:

“In determining the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.”

One can more easily understand that.

So it is quite clear that we are rushing headlong into these amendments to our motor vehicle regime, without contemplating some of these issues as fully as we should. When we were slow, when we tarried, it was not because of inefficiency, but because we made sure before we brought legislation to the Parliament, in all cases, that the thing was operable; that it is sensible to do that.

On page 18 of the very Bill, the Motor Vehicles and Road Traffic (Enforcement and Administration) Bill, I am back to the Schedule, at No. 48, there is a minor change that I want to bring to the attention of the Attorney General. At No. 48, the words “Public Service” both begin with capital letters. I think, at least, that the “S” should be lower case. Other than that it would lend the impression that we are speaking about a specific type of vehicle belonging to the public service, which is not what the Act says. So let us deal with that.

We are talking here about the offence of “Public Service vehicle-importuning of passenger”. Importuning means harassing them, bombarding people with requests to come on board, like touting. It is true, and we cannot disregard the facts as they exist in the society, as idealist as we might be, as much as we might want things to go in a certain way, the reality is that for as many maxi taxis as

exist in this country, there are young men who earn a living as conductors, they call them. We call them—[*Interruption*]—and it is illegal. Society calls them “touts”; people who come out and beckon people and importune people to these vehicles.

We are at a juncture in our society where we must pay particular attention to young people. In all of my time, I have not seen any elderly person performing that role, but the reality is there are many young people who earn a daily income by assisting in that way. It is illegal, but it happens. Many young people in this country tell us—and I am sure they tell you in your representative function—that they want employment; they want assistance to find employment. We would tell them all the things that we need to tell them: to improve their skills; to get some training; improve their educational asset base or what have you. But some of them say—and we correct them, we tell them, no, there is no link between it—if I cannot get an opportunity to earn a dollar legitimately, I have to do something that is illegitimate. We do not and should not condone it, but that is a bit of logic that is hard to fly in the face of sometimes. Because if a young man spends his moments assisting a driver and he gets some income like that, as far as he is concerned, nothing is immoral about it, but it is illegal and this is an offence, importuning passengers. We need therefore to—[*Interruption*]

2.50 p.m.

Motion made, That the hon. Member’s speaking time be extended by 30 minutes. [*Dr. K. Rowley*]

Mr. F. Hinds: I am most grateful to my colleagues for extending my time. I was making the point about the way we treat with young people in the society and the relevance of this legislation in relation to them. We have to be careful as we do things, we do not narrow opportunities for our youth. Some of them wrongly believe if we do this, however legally proper, we are taking away an opportunity to earn money from them and they seek to do more dangerous things at times. But we must warn them against it. I warn this Parliament not to turn its face away from those realities, but to confront them. It is our business to think about the ways that we could resolve them.

Take for example, “pulling bull”, as it is called; plying private cars for hire, that is an offence, but every person in this country knows that there are some parts of this country where one cannot get transport to go home other than by way of privately hired vehicles. That is a fact! It is not proper, it is clearly illegal, but it is a social reality that it would be stupid for parliamentarians to turn a face against. There are areas one would not get home if one does not use a PH car as it were.

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As we create new laws and narrow these opportunities—because the Attorney General has specialized in bringing harsh and drastic legislation to this Parliament—legislation that makes life tougher for the young people in this country because what were not criminal offences he has made them criminal offences, hardhearted as he and the UNC are. That is why some of them call him “Dracula”. They say—*[Interruption]* I am not *[Interruption]*

Hon. Member: Who is called Dracula?

Mr. F. Hinds: Mr. Speaker, I was about to say I would not condone that. *[Interruption]*

Mr. Maharaj: They call me Dracula but you look like a Dracula.

Mr. F. Hinds: I could take the punches.

Mr. Deputy Speaker: It is not right to bring a third person to say what you want to say.

Mr. F. Hinds: I am obliged. I did not want to say that, I was reporting what I heard, but I would not spend time on that.

The Attorney General has, with various pieces of legislation, made the criminal justice system more challenging and trying for thousands of young people in this country. Fact. And for all of us, he has made it more troubling and trying because only recently this Government, as a matter of its foreign policy, removed the right for citizens in this country to go to certain international bodies for redress if we find ourselves up against a very oppressive government as the UNC Government is.

With all the fanfare of that Government, what it has been doing is narrowing the channels and making life harder and tougher as it erodes people’s rights and make new criminal offences in this country. Not realizing as it does that, as they reflect the hideousness of their Government’s policy and the ugly face of the UNC, they are creating a stress, a strain and a tension in the society that will one day—*[Interruption]*

Mr. Assam: You want lawlessness?

Mr. F. Hinds: No, not at all. We stand for law and order in the PNM.

Mr. Assam: Do you not want lawlessness?

Mr. F. Hinds: I want us to contemplate the implications of what we do as parliamentarians and I want you as a Government to consider the implications of what you do before you rush here and mimic England and Canada and try to get political points off of it. That is all I am saying. *[Interruption]* I am being disturbed, Mr. Deputy Speaker.

Mr. Deputy Speaker: If you had spoken to me and not answered him, which is what you are doing, you would not have been disturbed. Member for St. Joseph, order. Member for Laventille/East Morvant.

Mr. F. Hinds: Mr. Deputy Speaker, when I was a child and I went into a taxi with my parents, I remember seeing a note in the back seat of the taxi behind the driver's seat, most times, with the list of the fares. Do you know how long I have not seen that? I cannot tell you the last time I saw that, and I travel in taxis fairly regularly, even now. I cannot remember when last I saw that. It has become irrelevant in our society.

In the United Kingdom and other places where there are meters in cars, and the passenger could see the meter, then he knows from the schedule of the fees published in there where he stands. But in the context of Trinidad and Tobago I know if I take a Belmont taxi or a Morvant taxi or a taxi to Couva South, I know the fare.

Lord Denning once said quite succinctly but correctly: "If the reason for the rule disappears, the rule too should disappear." The UNC for example has outlived its usefulness in this country from year one of its government and they too should disappear, and would disappear! More pointedly, we have the offence of statement of fares undisplayed in a taxi. I would like the Minister of Works and Transport—but he is not even here, he does not even care—to tell me when last he knows that any licensing officer or any police officer prosecuted any taxi driver in this country for failing to display a list of fares. I do not even think—when taxis go for inspection at the licensing office that is not one of the things they look at. It is absolutely irrelevant, in the context of Trinidad and Tobago. I only throw it to the Attorney General, he is talking about traffic wardens.

I could see simply more strain and stress on the feeble administration at the licensing office. Pure problems. This thing is not workable. The ticket system is failing because sadly but truly it appears as though we are simply unable to cope. We need to work on that: make the system more efficient. *[Interruption]* It really is not working too well.

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I want to turn my attention, briefly, to the new offences created by this legislative package. The Attorney General took pains, he explained to us that if a man driving a vehicle kills someone he is charged eventually for motor manslaughter, he goes through the preliminary inquiry and the matter is sent to the assizes. In the United Kingdom, he alluded to it, there were many cases where persons were charged for motor manslaughter, but because of the knowledge on the part of the jury—because it was tried by jury—of the sentence that he would face, they were reluctant to find him guilty, even though on the facts he was guilty. But because in the mind of the public, the sentence was too severe, the jury simply brought perverse verdicts. A perverse verdict, as the Attorney General knows, is a verdict that goes totally contrary to the obvious evidence in the case. They simply came with another decision. The reason was because they found that the penalty was too severe. That was the rationale in England for changing the law and effectively making the sentence more sensible: something that the public could accept.

The jury in that case was a reflector of the democratic will of the people. You saw an expression of democracy even in the courts of that country, and as a consequence, the legislature moved and made the penalty more reasonable and the jury felt more comfortable with finding people guilty thereafter. That is not the case in Trinidad and Tobago. In fact, few cases of motor manslaughter get to the court. Most of them, for the reasons he correctly advanced, get thrown out at the preliminary inquiry stage because it was difficult to establish, because of the high burden of proof and the standard of proof in respect of the mental element.

This proposal is designed to bring an intermediary offence to deal with the issue; one known now as “causing death by dangerous driving”. It lowers the standard of proof required in respect of the former motor manslaughter.

3.00 p.m.

I heard the Minister after we came from lunch feebly read—he read all his presentations, and I am not challenging you, Mr. Deputy Speaker, you did not rule. He feebly said that he proposes to come with breathalyzer legislation in the future. Why did he come with that? Because he realized that he would have been making a mockery of himself, because very early in the life of his Government he told us we would shortly see the introduction of the breathalyzer; we would see the use of radar guns, and the implementation of up-to-date technology that exists in England where there are cameras erected on highways and drive-overs and if you passed at a certain speed, it triggers off the cameras and you get a photograph

of the vehicle, the number is traced and a summons is sent to the offending driver. The UNC promised us all that, and today, almost five years later, we have to rely on evidence of the police officer that the person's speech was slurred and he was smelling of alcohol, and on that test any non-driver in this country and probably in the Cabinet of Trinidad and Tobago—*[Interruption]*

Mr. Deputy Speaker, I trust that when the Member for Nariva becomes a journalist again in the next few months, if they accept him, he will write on these matters. The new section 71A would seek to replace the existing offence of reckless or dangerous driving with the offence of dangerous driving and it says that bad driving would be established by the consequences.

When I heard the Attorney General say so I jumped. Imagine, bad driving will be determined or established by the consequences. So if the road is wet, if any circumstance led to the vehicle smashing into another one, or a shop front—you know we will now be looking, according to this, to the consequences—if five persons died as opposed to one, to determine whether the driving was bad. Could that be proper? The law according to the Attorney General. He has a penchant for bringing draconian measures to this House without thinking through them carefully and then leave the society in flux thereafter.

The workers of the legislation do not know which way to go and we would use objective rather than subjective criteria. So if the vehicle crumples up like a piece of paper, the driving was bad. I would like the Attorney General to think that over again. Do you know how many times we have come to this Parliament and pleaded with this Government not to take a certain course? As long as the Constitution of this country does not demand a special majority, they are going to pass it. The only time this Government comes to us smiling and talking softly is when it needs our support. Just like the Prime Minister went to Tobago a few days ago to talk softly to the Secretary of the Tobago House of Assembly and with the dangerous dogs legislation. When he comes with the amendments, he will be talking nice and soft. He sat next to the Prime Minister this morning as I spoke about contrasts. His hair is jet black, and the Prime Minister's hair is milky white, like ebony and ivory. The only thing they do not do is bring peace and harmony to this country. They spoil the people's song and all. Spoilers.

Mr. Deputy Speaker, we on this side will, in our usual way, make our contribution to these debates. We have said in principle we will always agree with any effort to improve the circumstances on our roads. It is my personal view, and I have heard many persons express it, that the one area that you can test the

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discourtesy and the hostility of your citizens is on the roads—the way they drive. We have seen a person's personality completely changed from when they are outside a vehicle and when they go in. The bigger the truck, the badder, the rougher and the more careless and robust they become. We have seen drivers stop in the middle of the road to change money for each other and disregard all other users of the road. We have seen all kinds of wanton disregard for our traffic regulations and we as a responsible Opposition will support anything that is done to improve those things.

We support the Bill in principle, but I am simply saying, to the best of my ability, that the measures that are to be implemented may very well be the Government's effort to win cheap political points in the nation again. I tell them that it is too little and too late. This is serious business and we have no problem supporting it, but we are saying that the proper administrative mechanisms must be put in place. We are confident that they are not now in place. The licensing office is in chaos, nothing coming out from there could be treated as *bona fide* anymore. I have two certified copies stamped and signed by the Commissioner and they are not worth the paper on which they are printed. We have problems. Of course, one cannot blame the Government for crime, but we maintain that this Government has created an environment where crime would flourish because if there is no top, there could be no bottom.

As I conclude, I ask the Attorney General to give serious consideration to what we on this side have said. We know that elections are in the air, we know that the Government wants to use all its resources including its leadership role in the Parliament to win political support, but the business of the roads, the use of the roads and the traffic situation is far too serious for that. In conclusion, I ask that they give attention to these matters and we will give full support to improving that regime for the benefit of Trinidad and Tobago.

Thank you.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Deputy Speaker, we are brought here today which is not a normal parliamentary day to debate three pieces of legislation having to do with the Ministry of Works and Transport—the Minister of Works and Transport, conspicuous by his absence—I must confess that I consider that to be an affront to this honourable House. [*Desk thumping*]

Mr. Deputy Speaker, let us look at the Bills before us. The first one, a Bill to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52, the purpose of which we are told by the mover of the Bill, the

Attorney General, is to clean up some problems which have been encountered since the passage of the original legislation, Act No. 18 of 1978 and also to legislate a point system. When we go back to that legislation, we see quite clearly that the whole intent was to have penalties for a number of traffic offences with the intent of removing the burden on the court. It is a system that is used in other countries and the concept was simply that if one committed such an offence, one would be served with a summons by the constable at that time, and would be given some time to pay. He simply pays it and avoids having to go to court and argue a case and so forth, but he reserved the right, if he felt that he was treated unjustly, to go to the court and prove his case.

We find that with time—we are talking about legislation which has been on the books for some 22 years—there would be need for upgrading and correcting any problems that would have been seen in the legislation. So really, we have no problem with the Government asking the Parliament to look at some improvements in the legislation. So that as far as that goes, we have no problem other than one or two areas about which I would speak. However, the Bill also attempts to institute a point system and I think that is where the Government found itself in some difficulties. I would spend most of my time dealing with that and the second Bill which goes into some detail with respect to the point system.

With respect to the first piece of legislation, I want to direct Members' attention to clause 5 of the legislation. One would have thought that 22 years after the original legislation a Government coming with an update, would have taken steps to improve the administrative underpinning.

Clause 5 says:

“Section 5 of the Act is repealed and the following section is substituted:

- 5(1) Where a notice has been given under section 3, the driver or the owner of the vehicle, as the case may be, may, subject to subsection (2), pay the fixed penalty in accordance with the notice.
- (2) Payment of the fixed penalty shall be made to the Clerk having jurisdiction in the district in which the offence is alleged to have been committed.”

Mr. Deputy Speaker, that creates a problem. It creates administrative deficiency. If, for example on a Saturday when I go to the beach at Mayaro I get myself in trouble with some traffic offence and I am served a ticket for a fixed penalty, what this seems to suggest is that within that 14-day period, I would have to travel to Mayaro to make that payment.

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[MR. SPEAKER *in the Chair*]

Mr. Speaker, you know that today the computer is here, and if I am served with a ticket—whether it is in Trinidad or Tobago—I should be able to go into, perhaps, any Government office or any police station and pay that ticket and the computer would take care of that. One would assume that when I am charged there is some entry on some database and, therefore, when I am making that payment, simply, I can go anywhere, to any police station and make that payment and that is that. That is, to me, the type of administrative efficiency that one would think would be important legislation of this type, especially when both the Member for Couva South, as well as the Minister of Works and Transport informed us that the existing legislation is not working, and that there is still a drag on the courts because of administrative inefficiencies.

The point is, it is not simply sufficient to come to the Parliament with legislation. One has to think through the thing and ensure that there are the administrative procedures in place to ensure the administration of the legislation. So that I suggest that we look at that subsection once more and see whether we can avoid the bureaucracy implied there.

Other than that, I have no difficulty with this piece of legislation. I think the whole concept of fixed penalty; the fact that, yes, there are certain offences because this Act does not create offences. All this Act does is to say that these are offences and we attach a fixed penalty to these offences. So that yes, you have committed the offence, you pay your fines and that is that.

When we move to the second issue, the point system—we see the Government getting itself in all types of confusion. What it has attempted to do is to say, “fine, these are the offences to which six penalties are attached. Therefore, on our point system all we are going to do is attach points to them now. Let us look at the offences in Act No. 18 of 1978. What they have done is to change one and two. Under Act No. 18 of 1978, the first offence—using vehicles for a purpose other than that for which it is registered. If we look in this Bill, we would see that as No. 2:

“Using vehicle for a purpose other than that for which it is registered.”

Number 2, in the Act of 1978, is now No. 1.

“Defaced or defected identification plate”

So that there is the same 79 or 80 fixed penalties with points attached.

If only the Government had given this thing some thought, or, if it had done some research in countries which apply the point system, it would have seen a few things: one, the point system is attached, mainly, to moving violations. Because of that, secondly, the offences for which points are attached are relatively few. It ought not to be more than 12 or 15. What is even more amusing in this legislation dealing with the point system, is the fact that some violations to which penalty points are normally awarded, are not included.

If you look at the list of 79 fixed penalties to which the points are attached, you would not see going the wrong way on a one-way street; driving on the shoulder; you would not see failure to obey a stop sign; you would not see driving while intoxicated; you would not see dangerous driving. The thing about it is they have taken legislation—which attempted to simplify the administration of the traffic court—by taking some of the simpler matters and saying, “Look, this is a fixed penalty. Fine.” And confused the whole thing by saying, “well, we are going to just attach points to this and call it a day.”

With respect to dangerous driving—no points awarded for that. So that I can be charged for dangerous driving; fined and imprisoned for five years, 15 years or what have you, but do not get any points. They have not given the thing a thought at all. They are thinking about elections and they feel this is an issue, therefore, they are going to bring legislation and go out there and say that they did something about the road situation.

Hon. Members opposite, let us go back with this legislation and think about what you have to do. First of all—*[Interruption]* five pages—because I am bright. Well, you tell me what it is! You show me where this Bill—*[Crosstalk]*

Mr. Speaker: Hon. Members, speak to me.

Mr. K. Valley: I am talking to you, Mr. Speaker. My colleague from Port of Spain South made the point. You have here: okay, speeding—going in excess of the speed limit. There is a penalty point attached to that. In every case—you would know that look, there must be a different set of points if you are going 10 miles in excess, if you are going 30 miles in excess, or if you are going 50 miles in excess. That is not so in this case. As long as you are in excess of the speed limit, you get a fixed set of points.

I am making the point that because they now have 79 or 80 offences with points attached, they would then have to set a very large—they have not told us; I do not know why they have not told us—threshold for one to lose one’s licence; in other words, to be suspended from driving. What that means is that an individual can, in fact, have some serious offences without being suspended, simply, because of the large threshold.

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If, on the other hand, they had gone the way of other countries—because this is not a new thing. In Canada, a few offences—I think about 10, 15 or what have you—at nine points you are suspended. You know for about a month or so you are being sent a warning letter and you have to go for retraining and at 15 points that is it! You have to go and take over your driver’s licence. Do you understand? That is what it is.

Under this system, what they are setting up here—where the threshold must be—when you see the number of offences and so on—about 500 points or something of the sort! It is useless legislation! Simply because they have not thought about what the intent was. They simply want to come to the Parliament with something. It makes absolutely no sense, and it is not going to work. My suggestion is that they go back and understand the system; understand the difference between the intent of the 1978 legislation. Yes, you can update that. That is to simplify court administration and so on. Simply, fixed penalties and then there is a system for penalty points with fewer items, with moving violations.

When you look at this thing, you wonder why would you want—I mean, some things are offences. But should I really lose my licence, if, for example, I park around the Savannah? A vehicle without a tail light? This is what we have to consider. We need to concentrate on moving violations. Driving when intoxicated; going the wrong way on a one-way street; failure to observe stop signs; failure to observe the electronic lights and so on. These types of things. Few. That is what it is.

3.25 p.m.

Let us look at the other Bill, Chap. 48:50, which deals with this point system. Clause 3 paragraph (3)(c) says, Mr. Speaker:

“by inserting after section 86, the following sections:”

So this is an amendment.

“86A.(1) Notwithstanding any written law, the Licensing Authority may suspend every driving permit for a period not exceeding six months if the person’s record as a driver of motor vehicles or his conduct or habits as a driver establishes that it would not be in the interest of the public safety for him to hold a valid driving permit or that person is not competent to drive a motor vehicle.”

Mr. Speaker, again, if we have a point system, let us try to have it as transparent as possible.

Dr. Job: Mr. Speaker, I heard the Member say a while ago that they should only constitute moving violations. However, would he consider it possible at all that a motorist can, by parking badly, occasion accidents that can cause the loss of life and limb?

Mr. K. Valley: The point I am making, quite simply, is that you are talking about suspension of one's driving permit and all I say is that while that is an offence and ought to have some charge or jail term affixed to it, you have to ask whether one should lose one's licence for that, whether you ought to make the system so cumbersome as you have done with some 79 violations. So that, one has to look at each one.

The main thing must be moving violations and when you look at your list you will see that a number of them ought not, in fact, to be there. That is the point I am making. I make the point now that a system of licence suspension should be transparent. The Canadian driver knows that if he accumulates nine points his licence will be taken away for some period, he would have to go for retraining, he starts back at the nine and if he gets to 15 then he would have to redo his driving test. We cannot, Mr. Speaker, in a country that has a good respect for democracy and respect for the rights of the individual, give the Licensing Authority the authority to suspend every driving permit for a period not exceeding six months on conditions that are not clear.

We need to state clearly that, if one gets X penalty points, then this is going to happen. If one gets Y penalty points that is what is going to happen. That needs to be stated clearly in the legislation. There must be no ifs or maybes, leaving it up to all types, otherwise we are going to have—and I know perhaps my good friend the Attorney General is planning to have, how is it called—judicial review after the election next year. Because this is what this legislation—I am merely being facetious, Mr. Speaker. I am not casting aspersions on the conduct of my friend.

Mr. Speaker: You know if you were I would pull you up.

Mr. K. Valley: Thank you, Mr. Speaker. So that is the point. Let us have some transparency. We cannot give that type of discretion as to whether or not the person's licence would be suspended. It goes on to say, Mr. Speaker:

(2) "For the purpose of establishing that it would not be in the interest of public safety for a person to hold a valid driving permit or that such a person is not competent to drive a motor vehicle, the President may make Regulations establishing a system of awarding penalty points against a person for the commission of an offence under this Act or the Motor Vehicles and Road Traffic (Enforcement and Administration) Act or the Regulations made under this or that Act."

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Mr. Speaker, this sounds like all types of rigmarole because we have seen here that it talks also about setting the maximum. It goes in subsection (3) to state:

“The Regulations made under subsection (2)...”

It says that the President would make regulations indicating the penalty points that are to be awarded for the different offences. It says further:

“The Regulations made under subsection (2) shall specify the maximum number of points to be awarded against a person before it may be established that it would not be in the interest of public safety for him to hold a valid driving permit...”

However, Mr. Speaker, when we look at this legislation we see that the penalty points are awarded but nowhere in the legislation does it say what is the maximum number of points one needs to sum up, as it were, to acquire, before one is suspended. So that, perhaps when they were doing this amendment they were not aware of this. This Bill is saying one thing; this other Bill is saying something quite different. One has to assume, because the points are already attached to this, that this is the regulation contemplated by the President and I am merely indicating that at no point does it indicate the maximum required for suspension.

It goes on to say:

“(A) The Licensing Authority may exercise the power conferred upon him by this section to suspend the driving permit of a person, at such time after the maximum number of points, referred to in subsection (3), has been awarded against the person as the Authority thinks fit.”

Now again, Mr. Speaker, transparency and certainty requires that, when the person acquires that number of points, automatically he will simply be informed. This legislation suggests some time period:

“(5) Where the points awarded against a person under the Regulations made under subsection (2) reach fifty per cent...”

he will be informed. Somewhere here it talks about some two-month period and then the person can appeal and so on. The system must be clear. If he gets to that number then he is suspended and that is that.

Now, having been suspended the question is, how does he get back his driving permit? I mean, is he going to be suspended simply for a period of time, six months or what have you, and then his permit will be handed back to him? Or, are we going to ensure that there is some type of retraining so that when he comes

back on the road we can be reasonably secure that he would have cured the error of his ways? The legislation does not consider that. To me that is extremely important because, Mr. Speaker, especially in the Trinidad environment, perhaps in many countries, a road culture develops over time and, as a fact, we know how we drive in Trinidad.

If we bring this type of legislation there would be a need, with a view to changing the culture, for public education. We would need public education in the beginning. I think it was the last speaker, the Member for Laventille East/Morvant—*[Interruption]*—I am sorry, the Member for Port of Spain South, who made the point that in the US there is that retraining exercise which is critical. If you take someone's licence based on that point system you cannot simply give it back to him and say, "Okay boy, go and be a good boy on the road now". We need to put him through and teach him the correct way on the road, Mr. Speaker. So I say that there is need for that retraining but, more than that, there is need for public education before this legislation is implemented.

Now, another issue, Mr. Speaker, is, if one gets points for a particular offence, how long does it take for those points to be eliminated from one's record? Or, does it stay on there forever? *[Interruption]* Well, why should it? Again I can say, because I am familiar with the Canadian system, that there is a period where it stays on your record for three years. I think that is the point to which Mr. Hinds, the Member for Laventille East/Morvant, was alluding, that after some time those penalty points are washed. So that if one gets 3 points or 30 points for a particular offence, there is a period during which, from the date of conviction to some period, those points should be on my record, but after that they ought to be eliminated automatically. We can do that because we have the facility of the computer.

You consider the case of a young person who has just started driving. Say he gets a few points. Is it right and just that we leave that on his record forever and ever so that when he gets to 60, you know, he has gotten to the maximum, perhaps, and then you want to suspend him? It makes no sense. Obviously, the research necessary for this type of legislation was not conducted because we have sufficient precedents on which to draw for this type of legislation. This is the clause here where, I do not know what clause it is but it is on page 9, subsection 86B (4), it talks about:

"A person whose driving licence has been suspended by the Licensing Authority under the section may, within fourteen days of the receipt of the notice referred to in subsection (2), appeal to a court of competent jurisdiction against that decision and the decision of that court shall be final."

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That is fine. He can always go to the court but before that he is given some period by the Licensing Authority to prove why he ought not to be suspended.

Page 8 subsection 86B (1), I think it is, states:

“The Licensing Authority shall, before suspending under section 86A the driving permit of a person, give that person notice in writing of his intention to do so, specifying a date not less than fourteen days after the date of the notice, upon which such suspension shall be made and calling upon the person to show cause to the Authority why the driving permit should not be suspended.”

You see this is giving discretion. All of this is simply because the legislation does not say how many points will trigger a suspension. So now you have to give the Licensing Authority a discretion as to whether or not to suspend an individual driver and I say that the point system should all be automatic—X points for that, Y points for that, and when you get Z points you are suspended automatically. Yes, if you want to go to the court you can go to the court. Every individual ought to have the right to appeal. That is fine. Let us, however, take away that discretion that is implied in this legislation.

So that, Mr. Speaker, we have no difficulty whatsoever with this legislation. We support the intent of the point system but the thought necessary for this type of legislation is absent and we need to look at that.

The third piece of legislation, dangerous driving, I just have one concern. I think dangerous driving should really be punished but you would note, Mr. Speaker, that in this legislation, clause 4 of this legislation amends section 71 of the Act. It says:

“Any person who causes the death of another person by driving a motor vehicle dangerously on a road commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.”

Fifteen years, Mr. Speaker, is quite a long time. Subclause (2) says, and this is the legislation as it came to the Parliament:

“A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of five years from the date of conviction from holding or obtaining a driving permit...”

So that he goes to jail for 15 years but his driver's permit is suspended for five years. *[Interruption]* The Government has now changed it; that is they have changed it in the Senate, right?

3.40 p.m.

Obviously, again, I am merely pointing to the fact that the thought necessary for this type of legislation was absent. So you send the guy to jail for 15 years but you suspend his licence for five years. I do not know what he is going to do with the licence whilst he is in jail and it went on to say:

“...on a second conviction for a like offence he shall be permanently disqualified...”

I do not know when you suspend him for five years, at least he has ten years in which he cannot commit the like event. So that I have, obviously, a difficulty with that and we will take it up in the committee stage, whether 15 years is the appropriate period. I do not know.

Mr. Speaker, while, yes, I am aware if you kill someone on the road then there ought to be a penalty, in some cases, although we have the death penalty for murder, there are a number of murderers who are out of jail before 15 years. Here there is a situation where someone goes with intent to kill, and that person would be out of jail before 15 years, and there is an individual who might be careless, reckless and driving dangerously, but not with the intent to kill got into an accident and, yes, someone dies. Should we really have that person in jail for 15 years? I do not know the answer but I think we need to look at that. Other than that, yes, we support this legislation.

In summary, we support the intent of the three pieces of legislation. We have a difficulty with the way the Bills with respect to the amendment to the Motor Vehicles and Road Traffic Act, Chap. 48:50, are structured. Also, to the extent that the amendment to the Motor Vehicles and Road Traffic Act, Chap. 48:52, includes the point system in the schedule, we have a difficulty with that because we think that while the whole intent here was to simplify the procedure with respect to simpler traffic offences, we are now complicating the matter. We are dealing with issues here that should best be dealt with otherwise.

Mr. Speaker, I think we need to look at these Bills a bit more. I suggest to the hon. Attorney General that either he takes them back or we look at them at the committee stage. I do not think it is going to take very long. The Attorney General has our support for the principal intent of the legislation, but we believe that they would not serve the purpose intended.

Mr. Speaker, I thank you.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. Speaker, I am pleased to join this debate on this package of legislation which seeks to bring greater discipline to driving on our roads. I am sure that we are all agreed that the pieces of legislation are, indeed, important and they form an instrument for bringing greater discipline onto our roads. I am sure that we all agree, as well, that we need this discipline because on a daily basis, we experience—either through reading or being witnesses ourselves—the horror that takes place on our roads and it stems from dangerous driving.

The fact is that many precious lives are being lost; many of our citizens are being irretrievably maimed forever; many families are being traumatized and left with scars that just would not go away in this unending tragedy of death by accidents on the roads. It is clear, therefore, that we need these pieces of legislation. Notwithstanding what has been said on the other side, I would, indeed, be very surprised if there is any fundamental objection to the passage of these pieces of legislation, especially since they had their origin when, of course, the previous administration was in government. So, within that context, therefore, I think they ought to be agreed—and I think it has been expressed on that side. We also want to make the point that law alone will not solve the problem and I want to concentrate my contribution in that direction.

Mr. Speaker, most of the contributions that have been made on the other side so far have focussed on the legal aspects of the problem. The speakers on the other side have posed questions to the Attorney General on matters pertaining to the law and the whole question of implementation and so forth. I have no doubt that the Attorney General when replying will respond to those questions.

I want to take the discussion in a different direction and to make the point that whilst the law is absolutely necessary, we on this side recognize as well, that the law by itself would not be able to solve the problem. There is the view as well that this problem is insolvable: that it may never be completely solved. When we are talking about road fatalities, we are dealing with one of those intractable problems of modern civilization; problems like consumerism; like environmental degradation; like substance abuse; some of these intractable problems of modern life and problems that emanated and arrived with the arrival of the car with the motor engine. So that I do not think it is realistic to expect that whilst we have thousands of vehicles running on our roads, we would be able to completely eliminate this problem. The most we could hope for is to lessen the number of people who are killed on our roads.

The question is—and it is a question for us to address in a non-partisan way—in addition to effective law what must we as a society and as individuals do to alleviate the impact of this trauma that we experience almost daily with the number of deaths on our roads? I think it has to be accepted, as well, that no Government can effectively deal with this problem without the full co-operation of its citizenry. So it is not just a question of law or government policy; it has to be the cultural environment which brings into force the full co-operation of its citizenry. As I said, it is an issue which transcends partisan politics, and in dealing with it I feel that we must have a collective effort in generating a national consciousness, as it were, to battle the problem.

Mr. Speaker, one of the things that we need to do is to sharpen our awareness and become acutely alert to the danger. That might sound like a surprising thing to say, when so many people are dying on the roads. I suspect that we have become numbed, almost immune to the pain that exists as a result of this problem.

3.50 p.m.

Mr. Speaker, it is almost as though we have been dulled by the deaths that take place on the road and we treat the matter very routinely. We hear of these deaths, we suffer for it for a while and then we move on to other things. More and more people are dying and more and more trauma is being created, so I want to make the point that we as a national community must once again remember that as long as we are on the roads, we are in danger of being killed. We must remember that. People must remember that.

That is not a problem that is peculiar to Trinidad and Tobago alone. Death on the roads is a global tragedy; it is an international tragedy. The road accident is one of the greatest killers in the world today; it is one of the greatest killers. So we must be aware that even though we have not been directly touched, it may just be a matter of time before it comes near us. I may be sounding a little alarmist by taking this position, but I think that as a national community we need to be alarmed, because too much destruction is taking place as a result of road accidents and dangerous driving.

What would this awareness do? I think it would cause us to police ourselves a lot more. It would instil in us that restraining mechanism when we use the roads. I think it will help us to police others as well, because that is what we also need to do. As a community, we need to get involved in actually creating the environment, ferreting out miscreants, those who are recalcitrant, those who are indisciplined and those who break the law. We must awaken in our spirit the commitment to become ardent advocates and practitioners of discipline and responsibility on our roads.

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I think we need, not just to be aware of the problem and internalize the reality of the problem, I think as well that we need to be activists in the prevention of the problem, and the diminution of the problem. So a measure of activism, I am suggesting, is also what is required. We must direct this effort, especially, at the recklessness that is all pervasive, sometimes, on the roads. We must focus on the reckless among us.

Some human beings, especially when they are young, have a natural tendency towards recklessness or the exhilaration of speed. A young man having got his licence for the first time, chasing the illusion of speed—and really it is an illusion of speed in a small country like Trinidad and Tobago. This is a small country geographically; every highway ends so quickly. You drive and you get to the sea, so what is this illusion of speed that we are chasing in Trinidad and Tobago? So we need to educate our young people who have this natural tendency towards being reckless and so forth.

We need to identify the recalcitrant in our midst, those who have a tendency to drink and drive; the “road hogs” in our community, and they may be in our own family. They may be in our workplace, our own social circle, and we need through persuasion and counselling to point out to these individuals the futility and the dangerousness of this reckless search for an illusory exhilaration.

The activism, I think, has to go further, and having done that I do not think we should hesitate to inform the police, for example, if persuasion does not work. We should inform the police because, in the final analysis, what we would be doing is saving lives through this kind of community activism. We would be saving lives, including those of the recalcitrant.

I make this point within the context of our position, that while we would pass the laws and have effective implementation, that alone will not be enough. The citizenry needs to come into the process; that national awareness of the acuteness of the problem needs to be remembered. We need to develop that spirit of community and that spirit of activism which will help us to police our own selves and others and create the atmosphere of prevention, so that we will deal with these purveyors of death, some of these chronic, reckless drivers in our midst.

I think that we also have a responsibility to nurture a sense of individual responsibility; that is very important. We live in a society; we all are individually responsible; we have an individual responsibility to one another. We have an obligation to one another. This sense of individual responsibility, in my view, is very important if we are to deal with some of these problems that I have spoken about, including the problems of carnage on the roads; that sense of individual responsibility.

Environmental degradation, for example, would not be completely prevented without a sense of individual responsibility. I am saying, that is very important and it must become part of the moral fabric of society. We will have to teach it in the schools, in the homes, in the clubs, in the churches, in the social circles, even in the political parties, because we need to once again re-emphasize the obligation that we have to others.

The fact of the matter is that in this modern society, in modern life it is particularly important, because I am sure you will agree that there is a very strong observation and a very strong feeling that modern life has tended to accentuate the individualistic, selfish and uncaring characteristics of human beings. In fact, these are what are amply demonstrated on our roads, bringing death to so many, in a way suggesting that the inevitability of death on the road is, in a way, a symptom of the deeper malaise of modern society.

I think that we have got to understand the root of this problem that we are dealing with, if we are to get close to handling it and to bring some measure of relief to the society that we live in. So we must continue to try with the laws, like the ones that we have before us, but as I said, we must develop the awareness and nurture individual responsibility. Part of that individual responsibility must be a return to community co-operation, that sense of being our brothers' keeper, because in the final analysis it is that sense of community and neighbourliness which would help us to protect the society.

In a small country like Trinidad and Tobago, in small societies, it is easier to nurture that kind of feeling. Larger societies tend to create the feeling of alienation. In a small country like Trinidad and Tobago where everybody tends to know one another more easily, it is easier to create that sense of community which we need, and to generate the care and discipline which we require on the roads of our country.

Now, Mr. Speaker, recklessness and irresponsibility, of course, are not the only causes of deaths on the roads. Again, I come back to this question of modern life, and it is one of my major concerns. I am convinced that modern society has generated levels of stress which have dehumanized people and society and has made societies, generally, uncaring, made people individualistic, has created a kind of all-pervasive stress, which manifests itself in very different ways: in our attitude to people, in our attitude to life, in our driving on the highway.

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Because the fact is, life is so fast-paced, everybody is on the fast lane; it is the only way to keep up nowadays. The fact is, the culture of the almighty dollar is upon us, has engulfed us all and it is also true to say as well that the rat race is on with a vengeance. That is the atmosphere within which people drive on the roads and it is naive for anyone of us to think that the drivers on the road are free from stress. Everybody is suffering from some level of stress; there is pressure to succeed; there is competition on the job threatening to marginalize you; bills have to be paid; the bank is calling; the children are complaining. You have got to get out there and get; it is the only way. Whether you are driving a taxi, going to an office or going to your business, the stress is upon you and you are capable of making errors at the wheel of your car, because you are under stress.

You are, therefore, a danger to yourself and others, and the question that we have to ask ourselves as a society is: How do we deal with this phenomenon of stress? That is a very difficult question. I am sure we do not have an immediate answer. The most that I can say, at this point in time, is that we have a responsibility, first of all, to recognize that we are under stress. We have a responsibility to understand that stress is a major cause of carnage on the roads. People look outwardly calm driving on the road, but you do not know what is going on in their minds, because of the environment within which we operate, and we have got to recognize that. People have to understand what is happening to them and they are, therefore, in a position then to take appropriate measures to deal with the problems that emerge.

Governments cannot legislate a calm. Government cannot legislate people to be calm. Governments can create policies and pass laws; it is essentially an individual responsibility to develop systems, internal and individual systems by which you deal with the environment. In other words, one has to make oneself capable of dealing with the environment. It is the law of life; it has always been that way. Some people have many different ways of coping, but what I want to suggest is that modern society is producing this kind of stress. We have got to be aware that this is one of the problems that create carnage on the roads and so the recognition of it must eventually lead us to some kind of solution.

Mr. Speaker, the point I am really making is that we must support this package of legislation, but we must do more than that. We must recognize that the legislation, by itself, is not enough to be able to deal with this problem. As I said, it is one of those intractable problems of modern life. It is a problem that may never be completely solved. What we need to do is try our best to lessen the number of accidents on the road, so that we can lessen the carnage.

I have pointed to a number of things in this brief contribution that I am about to end with here. I have pointed to the need for national awareness, a sense of community, for individual responsibility, for the tempering of individualism and selfishness, and the need for us to be aware of the malaise that is inherent in modern life, which produces stress and creates all kinds of disruption in the social system.

4.05 p.m.

I suppose in the final analysis I am pointing to something cultural: a cultural frame, a body of values, a body of ideas which, in my view, in addition to the law, that cultural frame, is really in the final analysis the only real bulwark against destructive forces that come against us sometimes: whether they are insidious or accidental.

I thank you, Mr. Speaker.

Mr. Colm Imbert (*Diego Martin East*) Mr. Speaker, I am not certain what the purpose of that time filler we were just subjected to was. I do not know if my colleague from Naparima, being aware of his imminent departure from elected politics, is preparing for a return to the stage. I could not make any sense of what he was saying, except that he has pointed to the fact that laws on their own would really not achieve the objectives. Perhaps that is what he was trying to say for the last 20 minutes or whatever it is.

The whole point is that these two Bills—I really will not comment on the Bill that deals with the offence of death by dangerous driving. This is a matter that is currently in the news. If one looked at the news reports of late, one would have seen a number of reports of persons who have died while attempting to cross highways, and imputations of dangerous driving or not, as the case may be. It is really a serious matter. I do not have any serious problems with that except the point that my colleague, the Member for Diego Martin Central brought up.

Coming to these two Bills—I might say, Mr. Speaker—like other Bills that have dealt with transport matters, are testimony to the laziness of the incumbent Minister of Works and Transport. He should do us all a favour and go off to be the party organizer or whatever is intended for him.

Mr. Speaker, during the 1992—1995 period, in the Ministry of Works and Transport, we brought in a legal officer who is on that side over there and we had a team looking at the legislation dealing with motor vehicles and traffic transport, generally. A number of issues were addressed during that period. A note was

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submitted to Cabinet and a number of positions were taken. All that was necessary for the Minister to do when he came into office, was to look at the positions we had adopted, determine whether they needed to be reviewed, fleshed out, expanded or amended, as the case may be, and bring coherent legislation to this Parliament.

Mr. Speaker, the way the Cabinet system works, a note will originate in a ministry, go before Cabinet and then it may be sent to one or more committees of the Cabinet: the Finance and General Purposes Committee, the Legislation Review Committee and so on. One would expect, with all the legal luminaries on the other side, they would see the foolishness in some of the provisions of this legislation. That is why I say the Minister is lazy because he seeks to introduce legislation awarding points for penalties and there is no consistency in the point system. As an example, the highest number of points to be awarded is 30. Quite rightly, if one looks at the penalty for speeding it is 30 points. But the penalty for parking or driving in the Queen's Park Savannah is also 30 points. How can one equate parking in the Savannah with driving dangerously, or failing to obey the directives of a police officer, which is also contained as one of the penalties which attract 30 points.

Rather than the Attorney General shaking his head, he should listen because every time in this Parliament when we on this side have pointed out the inconsistencies of legislation, he has behaved in his usual arrogant manner, only to be corrected in the other place. It is very easy for him to hide behind the fact that this Bill was presented in draft through the Cabinet and sent to one of our subcommittees. Easy. But he is in the Government and he has to look at what is before him. I say that many of the points that are to be awarded here do not make any sense.

There is no justification for passing bad law, no justification whatsoever. For example, no tare or MGW painted on the vehicle, 30 points. Vehicle with defective brakes, 20 points. If one does not have on the side of the vehicle that it could take 3,000 or 4,000 kilogrammes, 30 points, maximum points for that; but no brakes, 20 points. I notice the Member for Caroni East is smiling because I can see that he understands the irony of what the Attorney General is trying to ram down our throats today. A vehicle without a silencer, no exhaust, 3 points for that and disturbing ones neighbourhood. But 30 points for parking on the Savannah.

Everyday I pass by the Savannah I see people flying kites. I see people strolling, young couples hand in hand with their vehicles parked on the Savannah. Now one is going to be subject to a fine of a maximum of \$200 and 30 points. That is why the point raised by my colleague, the Member for Diego Martin Central is relevant. The Attorney General is asking us to buy cat in bag.

He has a Schedule—I really could not care less whether this Schedule is attached to a Bill that was submitted to a previous PNM government, even by myself. I really could not care less. That is totally irrelevant. What we have to look at, Mr. Speaker, is whether it makes sense or not. We are being asked—*[Interruption]* That is why it was sent to a committee. That is the whole point of the Cabinet committee system. We are being asked to agree that defaced identification plates should attract a penalty of \$60 and 3 points; that a vehicle with defective brakes should attract a penalty of \$150 and 20 points. A vehicle without a silencer 3 points, that reversing at the junction of roads or around a corner in the city of Port of Spain or San Fernando, 30 points and so forth. We have been asked to approve and agree to this point system, but we are not being told what is the threshold. How can I agree to 3, 10, 5, 20, 100, 500 points for infringements of the law if in the next piece of legislation before us we are not informed what the maximum points are? Suppose the maximum point before one loses his licence is 50, or 10,000? It would make a mockery of the law. We are not children.

4.15 p.m.

Has any study been done, now that the UNC has had four and a half years to reflect on this draft piece of legislation that was submitted to a previous Cabinet? They had four and a half years to look at this. Has any study been done to determine the relevance of the point system, or the statistics in terms of motor vehicle offences, to determine the frequency of occurrences of these offences?

It is absolute nonsense. They just took exactly what was submitted to the PNM Cabinet which went to the Finance and General Purposes Committee which had not completed its deliberations on the matter and brought it back and now trying to justify that piece of irresponsibility by saying this is a PNM bill and Cabinet had approved it already so we must approve it. Utter nonsense, Mr. Speaker! We are not agreeing to that. No way. If Cabinet had agreed to this, why did it go to the Finance and General Purposes Committee? As a joke? Clearly, Mr. Speaker, they need to think about what they are doing and the point my colleague, the Member for Diego Martin Central, had made is very valid.

If you accumulate points in accordance with this legislation if it is passed in its existing form, you will accumulate points and keep accumulating them for the rest of your life, until you reach the maximum at age 50 or 55 and then you lose your licence. It is utter nonsense. One should look at the man's or woman's driving record, you accumulate some points and then you are clean for 5—10 years, your points should be removed from your record. That is how it is done in every other country that has this point system, but you see it is a question of

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laziness and they feel they are so bright, they will come here and say this is a PNM bill. I want to ask them, what is meant by a cyclist holding on to another moving vehicle? The fixed penalty for that is \$150.00, 20 points. Who is getting the points, the cyclist? A man riding a bicycle—does one need a driver's permit to ride a bicycle? Who is getting the points? The person's vehicle which he is holding on to, or the man riding the bicycle? What licence is the point attached to if it is a cyclist? Do cyclists have licence now? A cyclist riding with no hands on the handle bar. If they mean motor cyclist they must say so, but you see there is an offence if one rides a motor cycle without a safety helmet. It is utter foolishness, and I cannot agree *carte blanche* to these points in their present form. I do not agree.

To take the point made by the Member for Naparima that we have to look at the underlying causes and we must be concerned about carnage on the roads and especially under the UNC Government, because the number of fatalities have gone up by 50 per cent under the United National Congress. The number of deaths on our roads is almost 200 a year under the UNC, and before they came into office, it was 125 and 130.

Mr. Speaker, the NAR had introduced a system of traffic education. I think it was called "Traffic City" where the former chief traffic engineer, Mr. Israel, and the former minister, who had an interest in transport had introduced an annual programme of traffic awareness called "Traffic City". Do you remember those advertisements on television where there were programmes of three persons in a jeep driving and they were showing you a man going up a one-way street, driving on the shoulder of the road? It was a programme of public education and when I came into office, I was informed of this programme by the public servants and approximately one year afterward, we also had our traffic city programme and our programme of public education in terms of dangerous driving. I can say that these programmes had a definite effect on reducing the number of fatalities and the incidence of dangerous driving and that is what it is all about. It is not about bringing something like this because you are lazy, or because it is election year, or you are going to resign your post, or you want to put on your curriculum vitae that you passed so many Bills. This is bad legislation. It is all about public education.

While we were the ones who promoted the principle of a point system, we cannot now—having had a closer look at this—agree with this foolishness. As my colleague, the Member for Diego Martin Central pointed out, should points really apply to things as mundane as—there are things in this Bill which are so trivial. Vehicle with defective fittings. What does that mean? That I do not have a seat on the left-hand side, or I do not have a handle on the right-hand passenger door? What do the words "defective fittings" mean?

Mr. Speaker, we have to be serious. We have to look at other metropolitan countries that have implemented this system, determine how they implemented it, whether it was on a phased basis, whether before they implemented the legislation there was a concerted programme of driver education, whether there were television programmes, public awareness programmes. How was it introduced? What was the intent, what is the objective? That is what we have to look at.

We are going to see all kinds of foolishness in this year 2000, all in this indecent haste of this administration to pad their curriculum vitae for Carville to put on the newspapers, the number of Bills they passed. It just does not make any sense, and all of this defective legislation is an attempt on the part of the present Government to hide scandals such as the Piarco Airport Project “shame”, the InnCogen scandal where we are paying \$300 million a year for electricity we did not use, for the desalination plant where we are paying \$100-odd million a year for some overpriced water in Point Lisas. This is what this is all about. All of this rushed legislation that has not been thought through properly is all intended to hide from the daily scandals that are taking place in this country, such as the scandal of the TT Post in the Oropune Village; buy a piece of land from some little old lady for \$400,000 and sell it back for \$4,000,000 and put a post office on it. That is what is going on in this country and that is what we need to talk about.

The Minister must explain why a country such as Trinidad and Tobago which is aspiring to world standards where there is a prescribed width on a highway, 10 metres or whatever, but in Trinidad and Tobago, our brilliant Minister of Works and Transport decides that he wants to put three lanes in a space where there is space for two on the Churchill Roosevelt Highway. It is not working, look at the number of accidents that have occurred because of that foolishness up there.

Mr. Speaker, I am sure when you are driving up the highway with these three little narrow lanes—and one of the hon. Members on the other side is going to regret that decision very soon. When they are driving their brand new 500 SEL Mercedes Benz—the wide one like the one which the Member for Oropouche recently got, Benz of teak or mahogany—and three of them are in a row. You have the Member for Oropouche here, the Member for Tabaquite here, and the Member for Naparima—the Member for Naparima has a Benz? No, a Volvo. So Volvo, Benz, Benz, wide with outriders, and one of them takes his eyes off the road on that dangerous highway, there are going to be accidents and they will regret it.

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I remember—and I know you will too—that when there was the national transportation plan that resulted in the creation of the East/West Corridor highway system and we used the American Association of State Highway Transportation Organizations System, the guidelines for lane widths and for turning and deceleration lanes and we saw the dualling of the Churchill Roosevelt Highway and the upgrading of our intersections with grade separated interchanges and so forth, and everything was being done to world standards. You would know about what I am talking, you had a stint in the Ministry of Works and Transport and during that period in the 1970s and 1980s, we were upgrading our transportation system to world standards, but we had to wait for this Government who is only interested in public relations gimmicks and money and a ministry recognizing that it has done nothing in the last four years, except to engage in public relations, scandal and cut ribbon, deciding it now has to do something. It cannot leave the ministry without doing something so we have a two-lane bridge—this is the idiocy of the whole matter—over the San Juan River, three lanes coming down the road; a two-lane bridge and three lanes beyond. No shoulder, utter nonsense.

The other day I saw a truck parked on the side of the highway in the Aranguetz area and one wheel was on the highway because they have utilized the shoulder for three lanes. I ask how many points for that? How many points for parking illegally on the shoulder, how many points for that? How many points for going up a no-entry road? What is going on? It does not make any sense.

I know that the Attorney General is hard-headed, stubborn and obstinate, but this is going to cause so much confusion in this country. If we want to do something, let us do it right. If we want to introduce a point system, if we want to introduce a system where dangerous and reckless drivers would be identified because this is what it is all about, it is to identify persistent and habitual offenders, people who are accustomed to breaking the traffic laws so we will target these people, identify them and then you look at them, and as they accumulate points and commit more and more offences you say: “You cannot drive anymore”. That is the whole point of this, and who could be against that?

4.30 p.m.

We are totally in support of that, but I am not going to subject myself to 30 points for parking in the Savannah! I am going to park there tomorrow. And I am going to fly kite there too. It is nonsense! I am going and accumulate 30 points. It is utter nonsense! What about paving the Savannah? How many points for that?

Mrs. Robinson-Regis: One hundred.

Mr. C. Imbert: One thousand points for paving the Savannah? You see, we got to be serious. We have got to look at all the offences, not just some of them; not just the offences that are in this Schedule. We have to determine whether we want all these offences to be in the points system. I take the point that my colleague, the Member for Diego Martin Central has made, we should identify the 10 or 15 most serious offences and make them subject to points, and forget about the rest of these things. These other things could be dealt with, by the penalty.

One of the problems—you know this is supposed to be reform of our legal system, but you only get points if you admit the offence. You only get points if you pay the fine and you admit to the offence. If you say, “no, you did not do that,” you are going to court. And you already have a problem where, there is a ticket system that is non-functional—because the court system cannot deal with it, and you are now, adding more to the court system. So the fellow says, “you see me, I did not park in the Savannah. I was not there. I was out of the country, so I am not paying. And you cannot put points on my licence.” That is the whole point. Everybody is going to court, Mr. Speaker! You have to agree to pay the fine and admit the whole thing, otherwise you would challenge it in the court system.

We need to think carefully about what we are doing, because this whole thing is going to break down. Just like the ticket system. This whole system is going to break down because all people would say is that they are not paying; they were not there; they were not speeding; they did not have a defective tail light; they did not have any of these things wrong with their vehicles. It is not natural justice. It is unconstitutional.

I remember when people got tickets for speeding, ten years later they brought warrants for them. If they catch you speeding in 1975 or some thing like that, in 1985 they brought summons for you to go to court for the first time, at the first rounds. And you could have been there until 1995 if you appealed it, on a point of law, and all this sort of nonsense. So 20 years later you are still there fighting about whether they caught you speeding or not. This is going to clog up the court system.

Really, the Government has a simple majority. It can try to railroad and ramrod this whole thing through this Parliament today. No problem at all. They can attempt to make us—on this side or we on this side, depending on where you are from—agree to a classification of penalties and points without—*[Interruption]* It is okay. That is fine with me. I have no shame; I have no false pride. *[Desk thumping]* No false pride at all. You see, I will say now, there is no shame in admitting that one did not think things through properly on a previous

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occasion. I have no shame in saying that this needs more study and more thought, and that when it was submitted in 1994, 1995 or whenever it was, it was sent to a committee for that purpose and it should have been studied. I have no shame or false pride in saying that. I have no false pride. [*Desk thumping*]

So the Attorney General could say what he wants. He could say this is a PNM bill; he could say this was piloted by the previous administration and so on, I do not really care about that. What I am interested in is that we do not pass bad law here today. You have to look at the objects of the legislation.

For example, the traffic wardens, who is going to educate these traffic wardens? Who is going to tell them what their duties are? We already have problems with police officers. There are difficulties with members of the protective services who need education and training. This is something that comes out all the time: the need for counselling; the need for retraining; the need for continuing education and so on. Who is going to educate and train these traffic wardens? How can you implement a system like this without an intensive training programme for traffic wardens? We have heard nothing of it. The Minister comes and runs. He reads from a prepared text and runs away. This is a highly technical piece of legislation. We are not against the principle of the Bill but it is the technical issues in the Bill that need further review. The Attorney General cannot answer. He cannot tell me why it is 30 points to park in the Savannah; but 20 points to have no brakes. He cannot tell me whether it should be the other way around; whether it should be 20 or 30. He cannot tell me.

While I join with my colleagues in supporting the principle and intent of this legislation, we cannot support the legislation in its present form. It is unthinking; it is incoherent; and it needs further study. If the Attorney General railroads it through, no problem, go ahead, push it through, ram it through. It would be just like the Dangerous Dogs (Amdt.) Bill. It would come right back here [*Desk thumping*] What goes around, comes around. It will come straight back here. So I would ask the other side to go back, take a week, look at this Schedule of points and so on, and think about the relevance of what you are doing, and then bring back this legislation. This is going to cause confusion in this country. I would ask them to try not to be arrogant for yet another time, because this legislation is coming right back into this Parliament.

I thank you, Mr. Speaker.

Mr. Speaker: Hon. Members, the sitting is suspended for half an hour for tea. I regret that we went beyond 4.30 p.m., but I was advised that tea arrived late.

4.38 p.m.: *Sitting suspended.*

5.15 p.m.: *Sitting resumed.*

Mr. Hedwige Bereaux (*La Brea*): Mr. Speaker, I would like to make a brief intervention in this debate in respect of the Bills, an Act to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52, the Motor Vehicles and Road Traffic (Amdt.) (No. 2) Bill and the Motor Vehicles and Road Traffic Bill. These three Bills, Mr. Speaker, are taken together and I must initially express my disappointment at not having the Minister of Works and Transport here today, well, late during the remainder of this debate, although I do not know if he will be returning.

You see, Mr. Speaker, he came here initially and started off by making some comments, although these comments were referred to by, I think it was, the Member for Laventille East/Morvant, and I think also by the Member for Diego Martin East. I also want to point out when he spoke about work being done, one, in respect of the highway—now, Mr. Speaker, you know, we used to talk about “bold face” and about people without shame. Really, you know, there are some people who do not know what it is to be embarrassed. For a man in the Minister’s position, a man whose action, or should I say inaction, has put me in jeopardy every day that I am leaving this place to go home because of the Solomon Hochoy Highway which he was charged with repairing or upgrading—it is still in a state of serious disrepair. It is the worst highway in Trinidad and Tobago and it is not properly lit, not properly marked and he has the audacity to come here and talk about highways!

Then, Mr. Speaker, he further talks about the Cross Crossing interchange. I must mention this, seeing that the Member for San Fernando West is not here. I am surprised that the Member for Naparima, who also represented San Fernando West and still lives in San Fernando West, did not take him up on that. You see, Mr. Speaker, the interchange in Cross Crossing about which he boasts is now called the Berlin Wall because there is a wall there, which we are paying good TT or maybe even US dollars to build, and that wall is threatening several houses. Even if it does not threaten the houses, whenever it is built the houses would be in, what we would call in geography, the rain shadow. Those of you who do not know what that means, well, I am not about to teach here today. Another time I will teach you what the rain shadow is. [*Desk thumping*] The houses will be in the rain shadow and any careful planner, any proper Minister of Works and Transport, would have dealt with the acquisition of those properties before seeking to build the interchange.

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I do not know how it will work because this is a smokes and mirrors Government. They talk about one thing being beautiful and then it ends up being something else. So I thought I would point that out. Not only is it there threatening houses and it is only a matter of time before they have to spend more money—well, they are not going to be spending the money, honourable Speaker, it will be the PNM government which will be saddled with that responsibility and that is the unfortunate problem about it. [*Desk thumping*]

Hon. Member: You are boasting.

Mr. H. Béréau: No, it is not that. This is a promise. I am not boasting. I am taking night to make day to get rid of them. [*Desk thumping*] Two of my children were in this country and they told me that I must either get rid of them or die in the attempt. [*Interruption*] Well, it is all right. One is born to die at some time but in the process—[*Interruption*] You see, maybe you do not know. They say, “How can a man die better than facing fearful odds?” [*Desk thumping*] If you want to know, “For the ashes of his father, for the temples of his Gods”. [*Interruption*] No, well it is Horatio, you know. However, I thought I would point that out. So we are going to get rid of you one way or another, [*Desk thumping*] by legal and constitutional means.

Mr. Speaker, as I was saying, the hon. Minister, the Attorney General, came forward and unfortunately, as a result of other very pressing and unforeseen circumstances, I was unable to hear the total extent of his contribution. From what I heard it would appear that he believes that passing these Bills would be a panacea for all the road traffic problems we have. He should very well know—and it is an unfortunate failing of lawyers. Some of them believe that all you do is you pass a law and you correct a problem. No. That does not happen so, Mr. Speaker. This needs a number of things. [*Interruption*] You do not worry about whether I am a lawyer or not. You rest assured that anything I handle will be properly handled, so you just leave that there. [*Desk thumping*] Mr. Speaker, it is more serious than that.

I want to look at this Bill particularly from one basic area, and I must do it. It says, “Motor Vehicles Road Traffic Act” and it is propitious that it is moved by the Minister of Works and Transport. You see, because—[*Interruption*] Well, the Minister of Works and Transport was here to speak, Mr. Speaker. There are several offences that are being created. There is, for instance, one offence here for overtaking, for which there are points which says, “Failing to keep vehicle to left side of the road”. If you fail to do that it is an offence, you get some points. If you do that too often you get points and you lose your licence.

Mr. Speaker, all other things being equal, you see, the condition of the road is most important in everything. I had the unfortunate experience of travelling in the opposite direction a few years ago and seeing a man dodge a large pothole and, as a result of that, causing a fatal accident. Now, that truck driver did not keep to the left-hand side of the road. He did not stay there; he could not stay there because of the state of the road. That is important. That is the obligation of the Minister of Works and Transport and this Government.

There is also an offence called killing—what is the new offence, Mr. Attorney General—causing death by dangerous driving. I think this Bill is deficient to the extent that we do not have any offence here, “Causing death by gross negligence in respect of the state and condition of the roadway”; and that is important. You see, what we have—*[Interruption]* It is in the same way, Mr. Speaker, that they—and I put it directly on the doorstep of this Government—went ahead and have totally neglected all the roads in the village of La Brea. They have willfully done it, to the extent that not one PTSC bus, a government bus, whether it is old, new or otherwise, brought from Brazil—and gave Mercedes Benzes to people—passes there because of the road.

Mr. Speaker, the Southern Main Road passes through the village of La Brea. Now that I am seeing this Bill here I could understand why the buses do not pass there, because they would have to go to the left, right, zigzag and even go off the road in order to pass there and it means there will be enough offences committed, in the process of going from Point D'or Junction right round to the Lake Asphalt Tennis Court, in order to get the driver disbanded for life. So, yes, it is not only that. We are dealing with road traffic here and I want to be very relevant because it is very fortunate that it was brought here.

You see, the people of La Brea and myself, we all pay a road—*[Interruption]*

Mr. Speaker: I wish to assure the Member for La Brea, if he is in any doubt, I continue to be tolerant towards him.

Mr. H. Bereaux: I did not hear that last part.

Mr. Speaker: I say, if you are in any doubt I want to assure you that I continue to be extremely tolerant towards you.

Mr. H. Bereaux: I thank you, Mr. Speaker. You know, we are all tolerant in the twilight of our years. *[Laughter]* That is why I am so docile these days, Mr. Speaker. So I was saying—*[Interruption]* I know very well what twilight means. Maybe you, Mr. Attorney General, have a little difficulty in understanding the nuance of the statements I have made. *[Desk thumping]* If that is your problem, that is you. I know that the hon. Speaker understands me.

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Now, I was saying, Mr. Speaker, the important thing is there is a situation where the main road—this is not any side road. We are paying a tax and this tax has been taken out, the four per cent road improvement tax, for years. For more than four years we have been paying it. The Government is supposed to report, by law, based on the conditions under which that tax was put in, half yearly to this Parliament. They have not done it.

Not only have they not done it, they have gone ahead and said they are going to give the Ministry of Local Government a portion of that to deal with local roads. Not only have they not done it, Mr. Speaker—and I will come to him just now on that same point about roads because we are dealing with road and road traffic, and we have a situation where they are not using the road tax in La Brea. They have decided that since La Brea is so difficult for them they are going to frustrate the people and do harm to them. And they are not fixing the roads. We have a situation where, in the first instance, they failed to deal with the security properly and Republic had to move the bank from La Brea.

Now the Government is not fixing the roads and vehicles cannot pass there. I am certain that the Government is aware that vehicles cannot move through La Brea, and as a result of that the pensioners are unable to even take the bus to go to Point Fortin to pay their light bills and other things.

5.30 p.m.

Hon. Member: I do not believe you.

Mr. H. Béréaux: Yes, this is true. It would have been in the newspapers. The pensioners are unable to do it. *[Interruption]*

Mr. Lasse: You are lying.

Mr. H. Béréaux: The Member of Parliament for Point Fortin's father is buried in La Brea and the Member knows very well that he and all cannot afford to drive and go by his father's grave so he should shut up! Do not tell me about lying. I do not lie. *[Interruption]* No, I am just telling him—so do not say a big man like me is getting up here and saying what is not true. The Member knows it is true. *[Desk thumping]* The roads are difficult and when I am talking about my constituency—*[Interruption]* Do not say that is not true. *[Interruption]* Mr. Speaker, I am hearing the Member for Arima. That is not a parliamentary word. The Member is a man who preaches the gospel sometimes.

Now, as I was saying, people cannot go into La Brea. I travel to go there and even take my car and go there because I cannot help it, but the road is so bad.

Mr. Speaker, now more importantly, take for instance, Lake Asphalt which carries the large containers along that road. The road was not built for those large containers, so Lake Asphalt is also damaging the road. What is even worse is that Lake Asphalt is one of the companies that are contributing to fix rural roads—an improvement of orphan roads. Lake Asphalt from La Brea is using its resources to fix an orphan road in front my house in Palmiste. I do not want to boast, but there are only three types of buildings in Palmiste: the large, the very large and super large. *[Interruption]* You do not worry about that. I am just telling you about the types of buildings there, so one would see what is happening. The Government is removing resources from the poor to carry to a place where the persons should be able to afford more.

Mr. Speaker, I want to point out the ambivalence of this Government in its behaviour, because in the same context the Government is talking about passing laws that will prevent some poor people who are not as careful as they should be from driving. That is the Government that is committing a gross miscarriage of justice whereby it is taking away from the poor. *[Interruption]* They are not talking about that. That should be an offence.

This Bill flies not only in the face of reason, but also in the face of anything that is decent, having regard to what the Government is doing in La Brea and I know that the Government sets out to do it. When the Member for Oropouche first came to this House after election, he told me that the Government was going to stop the industrial estate and to keep its election promise the Government was going to stop it. But I live to see that the Government threw the Member out from one ministry and the Member is running up and down complaining. The only good thing about it is that it gave the Member a Mercedes Benz because the Member had an opportunity to give out—I will not go into that, I will just pass it off.

Mr. Speaker: I want to beseech you to address your words to me and not to any of the Members, please.

Mr. H. Breaux: Mr. Speaker, I am addressing you. I am not getting into that anymore. We know that the Member...*[Words expunged]* *[Interruption]*

Mr. Speaker: Ladies and gentlemen, one second please. Now, what the Member has just said seems to have one implication. I could see only one implication to that and that is quite wrong. That could be said outside of the Chamber, but in here it is quite wrong and it should be expunged.

Mr. H. Breaux: No, I will not say it outside but it is expunged. *[Interruption]* The Member gets his voice now.

Dr. Griffith: The Member will take your two pennies.

Mr. H. Breaux: I do not have any pennies. I am a very poor man. *[Interruption][Laughter]*

Mr. Speaker: Order please! Order please!

Mr. H. Breaux: I am suffering like you because I have a judgement against me that I have not been able to clear.

Mr. Speaker: May I please appeal to the hon. Member to be relevant.

Mr. H. Breaux: Mr. Speaker, yes, I was dealing with it.

Mr. Speaker: As I say, I have been very tolerant but you are pushing that. I ask you please, that is irrelevant to anyone of the three Bills.

Mr. H. Breaux: Mr. Speaker, I was interrupted by the Member for St. Joseph who was interfering with me. That is the only reason. I really did not want to get into that. I came here specifically to deal with the question of the roads, and to point out that these Bills are incomplete, in the context of a government that does not see about the roads. There are several items in these Bills which could militate against good driving habits, and as a result of that have reason to cause the citizens really to be charged improperly. That is what is important.

Mr. Speaker, I think there is even in the Motor Vehicles and Road Traffic Act, an offence if one drives along the road and wet a person by putting his or her motor car into a puddle. I mean, in terms of parts of La Brea, that is a common occurrence unless the person jumps over the drain to escape the water.

Take for instance what is happening now with the development of Point Fortin. With the second and third tranches of the LNG plant the roads are going to become even worse. We saw what happened in respect of the first tranche and we know what would happen in respect of the second and third tranches. Because of the volume of the traffic it is going to damage the roads more and more and there is no maintenance.

Mr. Speaker, when one gets in touch with the Ministry of Works' officials in the La Brea area, they tell you that there are no materials. There is a stockpile there that is no longer a stockpile. I am urging both the Minister of Local Government and the Minister of Works and Transport to release money in respect of the local government roads so that they could deal with the roads in La Brea.

Mr. Speaker, a gentleman came and asked me—right here in this Parliament today—what is the situation in the case where the condition of the road induces what could be termed a traffic violation. That is criminal negligence! Where is that offence? The Attorney General took it upon himself to create all sorts of offences but he has done nothing about it. Do not come and say that it was the PNM's bill because the Attorney General himself said it was not.

One other point—and I think part of this point was made before—I have seen quite recently the various insurance companies coming together to discuss risks on the road and what they can do about it and they are talking about cancelling people's insurance.

5.40 p.m.

We know that when insurances are cancelled you have a problem, you cannot run the vehicle. It is an offence to have a vehicle on the road without the proper insurance coverage. The insurers are taking that view and quite rightly, to some extent, because the carnage on the roads has increased substantially. It has increased against the background where a government, which is now in power, came into office promising action in respect of crime. They have done nothing; nothing significant. But the main thrust of my statement here today is simply that I would like to highlight—

I am making this statement; I am going to copy it and take it to my constituents straight out of the *Hansard*. The reason for that is because I want to point out to them the response I am going to get today from the Attorney General, from the Minister of Works and Transport or from anybody, about the roads.

You see, Mr. Speaker, they have taken on themselves to attack and put the village of La Brea under attack. They talked about the police being involved and about traffic wardens. Well, you need to go into the police station in La Brea: no water, no police vehicles, rats and whatnot. They have done nothing to it!

Hon. Members: How long?

Mr. H. Breaux: At least four and a half years now. *[Laughter]* They have done nothing. With respect to the post office, it is a good thing I was brave enough to deal with TT Post, because they were even trying to move that. When you have to pay the fines and you have to talk about money, you have to go to the warden's office.

Mr. G. Singh: Hon. Member, thank you for giving way. You know that you called TT Post and they indicated to you that it was merely a rumour and there was no truth to it whatsoever.

Mr. H. Breaux: That is what I was trying to say. That is why I said they came with the post office. I called TT Post. You are correct, Mr. Minister. Why did you not get up when I spoke about the Public Transport Service Corporation and tell me something?

Mr. G. Singh: That is under the jurisdiction of the Minister of Works and Transport. [*Crosstalk*]

Mr. Speaker: Would hon. Members cut the dialogue between themselves and speak to me, please.

Mr. H. Breaux: Mr. Speaker, I was just trying to facilitate the Member, because I want answers. I did not come here for any “ole” talk. I came here for answers and if he appeared to be giving them to me, I wanted him to have an opportunity because, at the end of the day, the taste of the pudding is in the eating. If I could get it done, I do not care who does it, as long as I can get the action.

Dr. Griffith: And we know that you like to eat.

Mr. H. Breaux: Anyhow, as I was saying, I now realize why I am not getting the Public Transport Service Corporation there. I understand that the Chief Executive Officer of PTSC has other duties elsewhere and is likely to take over from the Minister. I hope she will, so that I could deal with her when she comes here on the road traffic matter.

Nonetheless, as I was saying, I had indicated that I was only going to make a short intervention specifically related to the roads in La Brea and, in particular, how improper roads and improper and inadequate numbers of personnel will affect the operations of this Motor Vehicles and Road Traffic Act and whether, in fact, having regard to those things, one can expect this to be a fair piece of legislation and to deal equitably with the citizens. [*Interruption*] Well, it leaves a bitter taste in my mouth to speak about Point Fortin, so I would say nothing.

Thank you, Mr. Speaker.

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I join this debate to express my opinion on some of the matters before the House today. Let me begin by making it quite clear that the purpose of this legislation is something we support.

In fact, as you might have gathered from the voluminous crosstalk, this piece of legislation first surfaced during the last administration so, obviously, those persons who were in the last administration saw the need for us in this country to have this kind of approach to traffic management and, therefore, that was an

admission that there were problems which could have been addressed by this kind of approach. Therefore, fundamentally, we do not have a problem with putting on the statutes this new kind of approach to traffic management and penalizing people who are in violation of our traffic code.

However, as my colleague from Diego Martin East pointed out, when Bills are conceptualized, when you are making changes and so forth, those who set about to make the changes might have an idea as to what they want to do. When it gets down to the how, when you are actually going to put in law, the verbal mechanisms and—how should I put it—the ink for the jurisprudence, you then begin, sometimes, to see difficulty. You have to ask, how is it going to work? Even though I know what I want to do, what I am offering, is that going to do exactly what I want to do? Is it going to create new problems? Have I left out certain things and so forth? That is where there is a difference between the concept and the final draft.

I remember this piece of legislation being sent to the Finance and General Purposes Committee of an earlier administration, because I had the honour of serving on that committee and, in fact, chairing it from time to time. I seemed to have recalled some of the concerns being raised here by my colleagues, being raised then. I do not hold any of my colleagues personally responsible, but when legislation reaches the Parliament one then has to make an assumption and that is, it would have been subject to the fullest debate and distillation so, therefore, what is before the Parliament is, in fact, what we think is the solution; not the concept or the workings of the mind. We think this is the solution to the problem.

When you bring it to the Parliament then I think the Attorney General and the Government, it is yours. It is not the People's National Movement's, not the public servants'. It is not if it is copied from English or Australians; it is not theirs, it is yours. That is why I want to ask a few questions, because I am seeing some anomalies with respect to the point system.

Let me repeat the question asked by my colleague, the Member for Diego Martin East. We are hearing about points and the concept of the Bill is that penalty points would be awarded and the accumulation of those points could result in loss of certain of their privileges, namely, the loss of drivers' permits. I ask, how much is a point really worth? As of now I really do not know. I need to know that before I could fully digest what the solution really is.

When I look here at item 4 which says you will get three points for no identification lights on vehicles at nights. Identification lights are very important, especially in an era of crime, to know which vehicle is there and, possibly, who is driving it. So no identification lights is three points. But if you look at No. 49, a

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taxi driver unsuitably attired gets 20 points. What exactly is unsuitably attired? Short pants, tank top, dark shades, shaven head; what is it? Maybe I missed it, again, let me back up again. I must apologize, I did come in here late today and maybe I missed that, but while I was here I have not heard anybody from the Government indicate—and I hope the Attorney General when he winds up will tell us—how would an officer determine who is suitably attired. Is there a dress code for taxi drivers which would specifically say, “You must wear short sleeved shirts, long sleeved shirts, cotton pants with leather belt, shoes, no canvass shoes? What is suitably attired? It is such a serious offence not to be suitably attired that you attract 20 points; it is almost the highest number of points that you can attract.

But then a vehicle driven by a criminal, with no lights, running past us, not knowing who is going there, that is three points. We need to know the value of these points and how many points will get you to that magic location where you are going to lose your permit. Then it will become clearer that maybe we have not allocated the points in a way as to be reasonable where the offence fits the penalty.

I go to page 12 on the Schedule again. Item 12 says, “Vehicle without two headlamps”. Does that mean two headlamps installed on the vehicle? So if you meet a vehicle with only one head lamp installed, then you will attract the maximum number of points, 30? Does it mean that if you are going to Point Fortin—as my friend from Point Fortin does—and while you are tired from Parliament, going home to get to your bed, somewhere along the way your sealed beam blows and you do not know, because only a few of these cars now have indicators that you have lost a beam. Most cars in this country would not indicate to the driver that he or she has lost a beam.

You are going merrily along the highway and you do not have two headlamps, you are going to attract 30 points. The same thing applies to vehicles without parking lights or without tail lights. While all of these are offences that should attract a penalty, we are going to have some difficulty with the quantum of points allocated, and we also need to clarify whether, in fact, we are talking here about lack of installation or malfunctioning of an installation. Those are two completely different things.

I could be the most law-abiding citizen in the whole country, but I have no means of telling when my headlamp has blown on a lighted highway. If it were a dark road I would notice that I am having poorer lights. On the other hand, as for the tail lights, forget it. Unless you come out behind your car and look at it—and

if you come out with your engine on and handbrakes up—item 19 says, “Quitting vehicle before applying brakes and switching off engine.” So you cannot leave your engine on to come outside to see if your tail light is on? *[Laughter]* That is 30 points. And, if you turn off the engine, it is very likely that—as in my car if you turn the engine off—all the lights shut down. *[Laughter]* So these are some of the intricacies of the thing that we have to look at.

That is why I said that we are not opposed to the legislation. Another one which drew my attention, Mr. Speaker, is item No. 36, “Leaving broken down vehicle on road unattended”. Now, my car weighs about 2,000 kilograms. If it breaks down on the road—let us take a new road between Valsayn and Morvant Junction, where they have converted the shoulder of the highway into a lane—if my car breaks down on that road, let us say 1 o’clock in the morning, according to this thing I have to pick it up and carry it with me *[Interruption]*

Mr. Imbert: No you have to stay there.

Dr. K. Rowley: —or stay right there with it, because if I leave it there it is an offence and attracts maximum points. Do you understand what I mean?

Mr. Imbert: If it breaks down in the Beetham, stay with it.

5.55 p.m.

Dr. K. Rowley: We need to clean up this kind of thing because it does not make sense in some cases.

Another thing that attracted my attention—I heard my colleague from Laventille/East Morvant say he had not seen for a long time, the fare schedule in a taxi. I was wondering whether there is a law that requires it to be displayed. Maybe I could be assisted by the Attorney General when he replies. I am genuinely interested; if it is a law that has literally passed into disuse because it has been honoured in the breach.

I am seeing here in the new law:

“Failing to display taxi driver’s badge”

I cannot tell the last day I saw a taxi badge in Trinidad and Tobago.

Hon. Member: What number are you on?

Dr. K. Rowley: 55. Is the taxi badge display and the fee schedule display the same thing that the law requires it be done? But here it is that we are not having display of the fare schedule and that is virtually accepted as no breach. Now, we are going to say that we will penalize people for taxi badge.

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I want to mention something about the taxi badge. I think—especially now, given the behaviour of some of our people in our very modern state—there used to be a time when in order to get a taxi badge one had to be of a certain character. The average citizen could not get a taxi badge. One had to be investigated and determined to be a person of a suitable nature to be entrusted with transporting the public, for a variety of reasons. What happened then was that they limited the number of taxi badges that were being given and that created a demand and supply situation and generated crime. In some cases stories have been told of taxi badges costing more than the car, because there was a trade in taxi badges. That was solved by freeing up the award of taxi badges and that prevented the trade in taxi badges.

But from time to time I have seen people—questionable looking characters—operating taxis I wondered to myself if the system for selecting or weeding out undesirables in that community of service is still in force, or is it that anybody who could buy a car or anybody who could operate a car—because many vehicles are not driven by owners, but we have many people operating taxis. I wonder if that screening system is still in place and if, in fact, there is a legal requirement that some background check and character assessment be done to protect the public.

Mr. Speaker, nowadays—there was a story in the newspapers this weekend that should be of great concern to my friends on the other side. There was a story which stated that somebody in the bank saw how much money somebody has and assisted somebody else with a kidnapping to get at the money. That should be a cause of great concern to my friends on the other side because they are all now very exposed. This is a serious situation. Therefore, we need to find out whether we are allowing some laws to lapse through practice, while we are enacting.

Mr. Imbert: Look at rule 45.

Dr. K. Rowley: Rule 45 speaks about playing a musical instrument, 30 points.

Mr. Imbert: If a person is coming back from Panorama and—*[Interruption]*

Dr. K. Rowley: Coming from a Baptist outing, one could get some serious points for singing loudly and ringing bells.

Basically, what I would suggest to the Attorney General is, let us not treat this as cast in stone. It requires some review. It requires some further thought to clean it up.

What I am not happy with at all, this one provokes me no end—it is somewhere here—it has to do with unsecured load. I do not think unsecured load is the only category that we should use for penalizing people who threaten our lives with loads.

If you come from the Western end, as I do, Mr. Speaker, virtually every single day, large numbers of heavily laden trucks come out of the port and they come unto Wrightson Road. Very often they occupy the right lane of the highway and they will drive from the right-hand side of Wrightson Road to wherever they are going and not a soul would tell them a word and you in a car, having to pick your way under these dangerous containers, sometimes many of them looking “kilketay” and one has to pick one’s way around them because it is a question of size and might being right. Whereas the regulation will talk about unsecured load, there are times when the load might be secured but it is still dangerous. It might be secured because it has a rope around it but the load in itself—for example sometimes we see trucks carrying bales of paper and they are stacked so high and the things can roll, they are tied with a rope. They will tell you that is a secured load but it is a dangerous load, even though a piece of rope is over it. I think the regulations should talk generally about dangerous loading as against unsecured loading.

In fact, sometimes I think it is only the grace of God that saves us from more tragedies on the roads of Trinidad and Tobago because, strictly speaking, this legislation—what we have in our hands—has largely been copied from earlier expressions. But there are some inherent and intrinsic problems in our transportation system which, if what we are concerned about, as this Bill seems to indicate, is the general conduct on the roadway and safety of road users, there are some other things that we need to look at, Mr. Speaker, not the least of which is the whole question of the density of motor vehicles on the road networks of Trinidad and Tobago.

That is why when I came in this afternoon, I came in at the point where the Minister of Works and Transport was doing the usual. Everybody in this country who wants a political existence—we are all free to aspire to that. I am in politics. Mr. Speaker, you were, you are, whatever it is. But anybody in this country who seeks to get involved in politics seem to think that the passport to do that is to jump on the PNM’s back and attack the PNM and that will justify one’s existence in politics.

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I was a little surprised this afternoon when I came in here and met the Minister of Works and Transport reading out a litany of shortcomings of the PNM with respect to traffic and infrastructural development and so on. When in fact, Mr. Speaker, anybody who knows anything about this country will tell you that except for the few roads like the Maracas Road, the roads in Chaguaramas and the piece in Wallerfield which were built by the Americans during the last World War, every single major piece of roadwork: secondary or primary, in this country was done by the People's National Movement over time. *[Desk thumping]* I do not know what possesses a Minister of Works and Transport to come here today and to seek to cast aspersions, even on you, Mr. Speaker, who had the distinction of serving as a Minister of Works in this country. *[Desk thumping]*

He spoke about 1967 and 1977, obviously—*[Interruption]* I did not want him to pay homage to you. But the bottom line is—you know there is a road in Tobago that runs from Roxborough to Castara, around the northern part of Tobago. I always regard that road as testament of a party and a government that kept its faith with the people of this country. When I was a boy in Tobago, one could not drive from where I lived to Speyside and to Charlotteville. One could not drive by motor vehicle, one had to take the boat. Mr. Speaker, I am not an old man. The boat used to go around Tobago twice per week—around the island. When the boat came from Trinidad to Scarborough and it offloaded in Scarborough, it will then leave for Mt. St. George, Belle Garden, Speyside, Charlotteville, Castara, Plymouth and then back to Scarborough. That was transportation around Tobago.

6.05 p.m

When one drives from Roxborough to Castara, one will see the various bridges along that road, and every bridge that was built, carries the date on which it was built and one would see; 1957, 1958, 1959, 1960. One saw the progress of the construction during that first five-year period of the PNM. And, of course, I do not have to list the number of infrastructural development in this country, the Churchill Roosevelt Highway. Coming from Tobago to Trinidad as a little boy, the Eastern Main Road was the main thoroughfare, and then we had the Beetham Highway. I remember when the flyover was built. That was a big event in this country. Up to this day when you say the flyover you mean Morvant junction. It does not mean some Minister who does not have any qualification in anything, designing some bridge and copying the arch in St. Louis and coming to tell me in the front page of a newspaper that the Minister has designed this.

Therefore, after three years of a promise of an overpass which should have started in 1997, a Minister who is the Minister of Housing and Settlements—who has built no houses, has designed a bridge and the arch is already built by somebody in France. I am asking, how was this contract awarded? How did this man in France build this bridge for the Minister of Works and Transport that the Minister of Housing and Settlements is talking about?

I ask my colleagues on the other side as Ministers of Government, how do they explain this? How do they feel about this as governance of Trinidad and Tobago? How do they do that? That indicates a Government where there are certain individuals who are under no control and authority. It violates every principle, because it appears as though in Trinidad and Tobago if one wants a bridge, one hires whom? An architect? And if one wants an architect, one looks for one who is qualified, but nobody in the Government is able to clarify for us the circumstances surrounding this attempt at self-gratification. I would bet my bottom dollar that that item involves public expenditure of some kind, but we will get there later on.

Mr. Speaker, I would not engage the Minister of Works and Transport because I think anybody who knows this country can look around, call the name of the road, say the Minister who is designing the bridge told us in 1996 that he and his Government had put in place arrangements with some Chinese company to build a highway from San Fernando to Princes Town. That occupied a number of inches of print in the local media, this is now May 01, we are about to end the term with this Government after five years, and not a single stroke of activity on the so-called highway from San Fernando to Princes Town, and that was a Government's expression. What we do have coming out of that announcement is a Chinese Government-owned company in Trinidad and Tobago doing Government construction on mundane activity like school construction, and we had the aggravation of imported Chinese labourers mixing cement.

Do you remember last year there were foreigners in this country taking away jobs from our unemployed, mixing concrete and building primary schools for Government state-funded project? That is what we got instead of a highway construction to Princes Town. So they lull you into accepting some offering, but under there is a current, putting money into their friend's pockets and that, sadly, has been the hallmark of every God in heaven thing this Government has attempted to do in Trinidad and Tobago. [*Desk thumping*] Everything they come with there is something.

Mr. Speaker: May I say to the hon. Member that it does appear to me that with respect to the three Bills, you are veering away from them. Try to make a tack back please.

Dr. K. Rowley: Mr. Speaker, I was just about to tack when you intervened. The Minister is telling us about public safety and I did prepare the tack by telling you that one of the big problems we have in this country is the question of the density of motor vehicles on our roadways.

It is this Government that took action which ensured that the population of vehicles in this country skyrocketed in a four-year period. This Government, under the guise of making it possible for the small man to get a car, created the concept of the foreign-imported, knocked-down, used-vehicle and a local industry in assembly of imported used vehicles. We told this Government that it is setting the stage for problems with the people of this country. We ended up with thousands of vehicles from elsewhere flooded into the country, now the real problem we have, I dare say, while what is in the Bill is useful, it will have very little impact on the improvement in road safety and utilization if something is not done about the rate at which we are putting cars on the limited pieces of roads in Trinidad and Tobago.

This Government, while its spokesman, the Minister, seeks to cast aspersions on the PNM's performance, is seeking to make a song and dance about Cross Crossing in San Fernando of which I am happy for the people of San Fernando, if the Berlin Wall does not fall on them before election. But the Government has not built any roads in this country. What it has done is take action to dramatically increase the population of vehicles, and that alone has increased the prospect of injury and damage to local road users.

I see them tinkering here and there with a lane here and a lane there and I too want to add my voice to my colleague, the Member for Diego Martin East. If you are going to make additional lanes, do not make mini lanes and those of you on the other side who sneer, just try coming down that three-lane highway with two panel vans, one on either side of you at 60 miles an hour and tell me if you do not feel a little queasy. If the drivers are not exactly on track, and some people tend to veer a little away from the lines, the minute they miss the line you are in line for a serious accident.

It was only yesterday I was going in front of the fire station, that new lane which has been added to allow some sort of filtering, even that, under some conditions will help, but under other conditions, it has increased the potential

hazard in that area because the lane is very narrow, and it comes up on you very suddenly. I almost got into an accident in that lane because of the way the driver came up in front of me. I am simply saying that the Government's record will show that the dramatic increase in the number of vehicles has served its purpose. They were able to pay back their friends who financed them by giving them access to bring into the country a large volume of used vehicles.

There are some people in this country with acres and acres of foreign-used vehicles. There are also people in this country who are approaching the courts charged with all kinds of nefarious offences about which we had warned them. The Government's spokesmen will tell you outside of this Chamber that money laundering in that business is a given and there are people in this country who are now afraid if they buy a vehicle, they are not sure with what they are dealing. Once you can buy a brand new vehicle, or an old vehicle and get a brand new number, the system lends itself to corruption.

In fact, there was one facility in the constituency of my colleague from Siparia—I am sure she is not even aware of it—a small business which was stamping engines with new numbers. The police unearthed that a few weeks ago, and that was their business, to remove the existing engine numbers and put on new numbers on engines. Do you know why? Because if that is done, one can appear at the Licensing Office with last night's stolen car and be given a brand new registration number and one is good to go. That is what they have done.

The money was made in the first and second years. They cannot give away foreign-used cars because now, if one wants to buy a foreign-used car, one does not have to go to the dealers, one can order it. Even those dealers who are selling new vehicles will now buy for you, if you so desire, your choice of used cars. You can choose your car on the Internet and, in fact, make your purchase there if you wish, the only difficulty you may have is in the shipment. This foreign-used dealership which they knew was going to cause some problems and which they foisted on this country in the name of the small man, it is now the small man who has to be aware, because the chickens are coming home to roost.

Mr. Speaker, it is interesting that it is the Minister of Works and Transport who is trying to protect us on the overcrowded roads, and no new roads are being built, but he is the Minister responsible for the Piarco Airport Project. I wonder if he is so concerned about the safety of the people of Trinidad and Tobago who are road users. I heard the passionate intervention of my friend, the Member for Naparima, who said we are in the age where you go out on the road and you can be killed. That is a reality. It is something you have to accept once you are out

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there. As passenger or driver, you are taking your lives in your hands, but the conditions have worsened under this Government and no relief is at hand because the resources to bring the relief are not in these Bills. These Bills are largely cosmetic, a little tinkering here and a little tinkering there. The resources would have been some new roads, some improved conditions on the roads, but no. The same Minister who reads some long speech that some public servant wrote for him is the one who is presiding over the wanton expenditure at the Piarco Airport where a \$400 million project is now 1 billion. I ask myself, what could the country's road users have done with a \$600 million road-building programme?

Mr. Speaker, I was in the Cabinet when Oswin Moore and the then board of the Airports Authority introduced to this country the idea of a new airport. It was done by the Airports Authority, it was its initiative and they came to the Government and showed us the economics and said we should embark upon building a new airport. That was at a time when the country had been in a number of years of negative growth in economic terms.

6.20 p.m.

We have not seen growth in the economy for a number of years. But the Airports Authority Board, looking ahead into the future said, “maybe, at this time, we should embark upon the building of a new airport.” The Government of the day then set its priorities. We did not say no to a new airport:” we thought a new airport should have been built because they convinced us. But we said to them, the economics would have to live by itself. The airport can be built; find private sector involvement. The Airports Authority was going to put in its revenue from the earnings, and an investor would have built the airport; would have owned it for 15 years; repay their financing by the earnings of the airport, and the airport comes to the Government for a dollar after.

So there was no money from the Treasury to build any new airport in Trinidad and Tobago. At the time when the proposal came they said “what we need is an airport costing about US \$70 million;” when the economics were done.

Mr. Speaker: Again, may I say to the hon. Member that all of this might be very exciting and interesting, but I am having difficulty, a lot of difficulties in really tying into this. I ask you please it is—I am not seeing it; I am really not seeing it.

Dr. K. Rowley: Mr. Speaker, there is nothing I cannot assist you with. The point I am making is that the Minister would have us believe that this is the solution to the nation's problem. I am seeking, in my own humble way, to

demonstrate that the Minister is way off course. When he took a decision to build an airport that could have been built without Government funding, and he committed the country, by way of his Cabinet support, to build an airport for \$1 billion from Government funding. He denied the country \$1 billion in road-building assets. [*Desk thumping*] That is the point I am making. That is the link I am making. Because if the airport was built in the way that the Government met it being built, which was private sector funding being paid for by the investor, there would have been no need for Government funding, and that money could have been used to build roads.

Mr. Speaker: I do think that you would be hard put to relate that to any one of the clauses of these Bills. I understand what you are saying. As I say, it is all very exciting for other things, but I have difficulty. I really have difficulty, notwithstanding your trying to persuade me that it is relevant. I would like you please to pass on.

Dr. K. Rowley: Mr. Speaker, I wonder if I should pass on to the bus route. Because I think I have made my point, and I accept your ruling. I am always guided by your experience, but I want to make a point. If I look at No. 76, “Use of Priority Bus Route by unauthorized vehicle.” That is 30 points. The Minister of Works and Transport is responsible for authorizing bus route passes.

I was here recently when a question was answered in writing in this honourable House, telling us who has passes for the bus route. And I was shocked when I saw that among the persons who had bus route passes—after the policy was outlined—was a certain favourite journalist of the Minister. Here, you want to penalize “John Public”, maximum points for use of the bus route, but the Minister could use the bus route pass to buy favours in the media. The same media that the Prime Minister railed against. Do you understand? The same media—the enemy of the Government. But this Minister, crafty PR expert that he thinks he is, is coming to tell me that the unauthorized use of the Priority Bus Route is such an offence that it must carry 30 points; bad brakes are 20 points; a truck loaded with 10 tonnes of gravel coming down the highway with bad brakes, could wipe out a school bus. That is only 20 points. Unauthorized use of the bus route, 30 points; but he could find partners in the media to give bus route passes. Not to say that all members of the media or that there is some system that you qualify under, you know. No, no, no, this Government does not deal like that. There is no policy. It is what is expedient to their circumstances. Shameless! Shameless!

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Under what circumstances? Under what aspect of the policy? Now the public must be penalized. If an individual decides to take an excursion along the bus route and try to escape, he will get 30 points. Maybe, 30 points could bring you a loss of your driver's licence. We do not know yet. I hope we would be told before the evening is over, how many points could cause you to lose your licence? If it is 30 points, it means that by going along the bus route you would have lost your licence.

Clearly, these infractions are not desirable. What is desirable that is not there? If I was a betting man, I probably would have been tempted to take a bet that I could get in my car outside this building and reverse all the way to San Fernando and, possibly, not see a policeman. If I see him, he would probably turn his face the other way; and most, certainly, I have a better than even chance of not running into a highway patrol. Our roads are not patrolled. Anywhere there is a high volume of traffic that we have on our main arteries, constant police patrol has been shown to be the most effective way in getting drivers to comply with the highway code. In the absence of police patrols you are relying on the good graces of the drivers. When did the highway patrols disappear? Imperceptibly. Because I knew.

When I travelled to San Fernando not too long ago, you had to be careful on the highway because there were always motor bike or motor car patrols. I cannot tell the last day I saw effective patrolling of any of our arteries. Therefore, if we are concerned about public safety for road users, the same way we are talking about these infractions being enacted into law—if there is no operation of patrols; and there is no enforcement as can only be done by patrol officers, then what are we to expect when this myriad of offences is created. Other than having put something on the books—it looks good—unless the bodies are out there on the highways, to take action as and when required, we would not have done anything with respect to the elimination or amelioration of road traffic hazards.

Nowhere in here do I see anything about a particular hazard. I think, maybe, it is because the law here says, "motor vehicles" but there is a hazard which is on wheels, and we see it very often. That has to do with parking of containerized cargo on the country's roads. It is something that is taken as of right in Trinidad and Tobago. Somebody brings in a container and they demand, as of right, to put it unlit on any roadway in this country and unstuff it whenever they want. In the meantime, it poses a hazard to every road user, maybe far more than many of the offences that we have listed here.

I am wondering if the Attorney General could find it possible to add that—but again, he may have the difficulty of who is the owner; who is the driver? How does one treat with that? Because it does not have its own engine, it does not have its own registration, but it is a road user, and something has to be done about that.

6.30 p.m.

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mrs. C. Robinson-Regis*]

Question put and agreed to. [*Desk thumping*]

Dr. K. Rowley: Thank you, Mr. Speaker. Item 67, "Failing to comply with an electric automatic signal", 30 points. I wonder, Mr. Speaker, how that squares with the advice that is commonly given. I have seen that advice being given by police officers. In an attempt to deal with mounting crime, it is not uncommon that police officers advise people that at nights they should not stop at red lights. Many people who claim to be community advisers, in attempting to treat with one problem they create another, because it is now standard practice at many of our intersections that as soon as it gets dark and the traffic volume falls, many of our road users believe that it is quite okay to not stop at red lights.

This Bill says that is a fine of 30 points, and so it should be, because that is one of the greatest dangers on the road if people are not stopping at traffic lights. In fact, most of our fatal accidents, especially in and around the Port of Spain area, have to do with people not observing traffic lights or traffic lights not being in operation and people doing certain things resulting in crashes.

Mr. Speaker, I would like to ask the Attorney General to try to secure our full support on this matter. I do not think we need to make this a contentious piece of legislation. I do not see the basis for any contention. What we have are differences of opinion on detail and the Government can count on the support of the Opposition to pass good legislation to put this policy into effect. It may very well be that—I do not know if we can think this thing through and finalize it tonight, but whatever we can do, Mr. Speaker, I think with a bit of effort this Bill can be cleaned up and be made so that it becomes good law, on passage.

Other than that, Mr. Speaker, if the Government decides it is not going to do that, it will confirm in my mind that this is not about treating with the problem it purports to treat with but instead what it wants to do is to be able to say—and I

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hope that is not what the Government is doing because, at the end of the day, that serves no real purpose. The Minister of Works and Transport, everyone knows that he is a public relations man. He has absolute faith in public relations, and so he might—some people have absolute faith in marketing. They feel they could sell you anything. I mean, the Minister is the same Minister who did not spend money on signposting around the country, another one of our glaring shortcomings, but he could have found almost a million dollars to spend painting the Laventille water tanks.

Everyone knows that when concrete containing water is painted, the concrete is cool, it is not going to last. You pass on the highway, Mr. Speaker, and look up on the hill and look at those two birds. They might look good as a piece of art if it was free but bear in mind that they cost hundreds of thousands of dollars. Ask yourself how many signposts that would have made in this country. One of my grouses with traffic management in this country, especially in our small towns—Arima, Chaguanas and Point Fortin—has to do with signposts. It is really annoying to me. When one comes to these towns one is supposed to know where one is going.

Try going into Chaguanas. After turning into Chaguanas try to find your way back into Port of Spain, Mr. Speaker. Ask yourself, “If a tourist enters Chaguanas and wants to go back out to the highway” what would happen? One has to know where one is going. Go to Arima. Every Monday morning they are changing around the street marks but the bottom line is confusion—no signposting.

Even when there is a signpost—go by the savannah. There is a big signpost, “This way to Maracas Bay”. One has to stop and ask, “Well, which way?” It is a roundabout. There are three roads, one going down one way, one going up another way. Which one of these roads leads to Maracas Bay? One half-acre of sign, “This way to Maracas Bay”; no directional help. I think the Minister of Works and Transport or whoever is responsible must take that sign down. It is a corporate sign but it is annoying because it does not replace the absent state signs. Signposting of this country is something that we need to embark upon.

One cannot assume that all the persons who live in a community know where they are going. When my constituents go into Point Fortin, they must know how to travel around there. In fact, many accidents are caused by people from outside the area who do not know the local traffic, they attempt to travel through and the signposting is so poor or so idiotic that they drive themselves into accidents. So these are minor things that we could look at.

I want to offer, Mr. Speaker, support from this side but support for cleaning this up, picking up the points we made. We know how this was arrived at. We do not think it was sufficiently distilled and cleaned up and we believe that maybe we should not proceed to close it tonight. Then we could have unanimity at a later time in the very near future, Mr. Speaker, and this matter should not detain us very much longer. Thank you, Mr. Speaker. [*Desk thumping*]

The Attorney General and Minister for Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I express thanks on behalf of the Government for the comments that have been made in respect of the Bill. The other comments I do not propose to respond to, but this matter has taken us well into the night and it is a matter with which, according to some of the hon. Members, they do not have any problem. Although I must say that there are conflicting stories which came.

For example, the hon. Member for Port of Spain South said these measures have come too late. The hon. Member for Laventille East/Morvant said no, he is against this. These are punitive measures. The hon. Member for Diego Martin Central said that the concept is very good and he supports the concept in principle, but there are certain matters that he wants to clear up. The hon. Member for Diego Martin East said this is just bad and he would not support it. The hon. Member for Diego Martin West said yes, he admits that in principle the last administration had supported it but he has certain problems with some of the measures. I would not worry with the hon. Member for Diego Martin East, however, because he has confessed that he has no shame.

Mr. Speaker, I do not plan to answer—I am sure at the committee stage we can go into some of the matters, but I want to deal with some of the gross misconceptions that we had here this afternoon. If I may say with the greatest respect, I think perhaps the Members on the other side probably did not understand or fully appreciate the Bill. Let us take, for example, the hon. Member for Diego Martin West. He talked about patrols being a problem, but these measures attempt to deal with that.

If you did not see it, hon. Member for Diego Martin West, we are introducing the traffic warden system in which the police service would no longer be seeing about these matters. There will be traffic wardens. The Government recognizes that there was a problem with effective implementation and that we had to introduce a measure. I know you were a Member of the last Cabinet and I am sure you would also remember that in 1993 the last Cabinet agreed in principle to have a traffic warden system. There was a study done, and you know who was the Minister of Works then, and there was a request to have legislation done.

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So that, yes, when this administration took office it did not just rubber-stamp anything. This was studied and the measures which were in place, which were supposed to be implemented, are measures which we are putting in place which are different to what you had recommended.

Dr. Rowley: Thank you for giving way. My memory is not as clear as it should be. On the matter of the traffic warden, as I seem to recall, was it the intention to put traffic wardens on the main highways? Because when I spoke about patrolling I spoke about patrolling on the main arteries. I do not know if you could help me with that.

Hon. R. L. Maharaj: The traffic wardens would be all over Trinidad and Tobago. [*Interruption*] It is intended that the police would no longer be doing traffic matters so the police would be absorbed in doing other matters that are more important. As a matter of fact, I am sure you would be familiar—anyhow. So the patrols part of it, these legislative measures will be put in place recognizing that law alone cannot solve the problem but that there must be a legal framework in place in order to be able to put some of these reforms in place.

Now, we have heard many jokes. It appeared as though it was a joke. Members got up and read from the Bill saying how laughable it is with the points and the matters, but let me see if I could explain it, Mr. Speaker. Under these three Bills, if I may say, there are really four important matters. One is the traffic warden system to be introduced; two, a recognition that the fixed penalty system has not been working too well and to strengthen that system and that is what we are doing with the summonses in order to deem the notice summonses and in order to have the responses made to the particular Clerk of the Peace of the court.

I know the hon. Member for Diego Martin Central mentioned that in a modern age of technology we should be able to do it. The fact of the matter is that under PNM administration you tried to see whether it would work and it is not going to work from the studies and, in the meantime, the system is not working. So at this particular time these reforms are considered necessary. These reforms were considered necessary after extensive discussion with the Licensing Authority, the Ministry of National Security, the Traffic Branch of the police service and the Traffic Management Branch of the Ministry of Works and Transport. So there were detailed consultation studies and it was thought that these reforms were necessary. I would come later to show that the Member for Diego Martin East, as Minister, recommended this and to even recommend the points that he was talking and laughing about. [*Interruption*] No, no, no, it is not “So what”. So, Mr. Speaker, we have dealt with the traffic warden by the measures of the fixed penalty system that we were trying to beef up a bit in order to make them work.

I do not think, in principle, there was any great objection, although there was much talk about many other things. The penalty points are dealt with in the two pieces of legislation before us. In the matter that amends the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, in clause 7, it says that it amends section 11 of the parent Act. Section 11 of the parent Act deals with the question of the President having the power to amend the Schedule dealing with the fixed penalty under the ticket system. Those were the matters, on the First Schedule, which were under the ticket system. Those were the fixed penalty offences and the fines.

6.45 p.m.

Mr. Speaker, clause 7(3) says:

“In relation to the system of awarding points referred to in section 86A(2) of the Motor Vehicles and Road Traffic Act, the President may add to or remove from the First Schedule any information with respect to penalty points as he thinks fit.”

The President, the Cabinet or the Minister, even though this is passed, can at any time add or vary. In effect, he can take out whatever matters are there.

Mr. President, how was this arrived at? This was arrived at because the penalty points are linked to the fixed penalty offences in the parent Act. If one looks at the First Schedule of the Act—*[Interruption]* Mr. Speaker, I am speaking for the record. I am not speaking to them.

If one looks at the First Schedule to the Act, one would see that the same offences, which are mentioned in the First Schedule, are taken and applied to this matter. What has happened is that the penalty has been varied and the point system has been awarded. The point system has been awarded on the basis of study.

Mr. Speaker, one of the things which the Ministry of Works and Transport considered in dealing with this matter was a report which was adopted by the—

Mr. Valley: Mr. Speaker, while the Attorney General looks for that, could I ask two questions? Would the Attorney General agree that the whole purpose of those fixed penalties is to take a burden away from the court and to allow persons simply to pay their fines? If that is so, does he see that attaching points to those fixed penalties now, would in fact be telling persons, “Go to the court and defend yourself otherwise you are going to get points”. What would be created is a further clogging of the courts and really flouting the whole purpose of the original legislation.

Hon. R. L. Maharaj: Mr. Speaker, the Government, as a matter of policy, accepted to go with the fixed penalty point system. As a matter of fact, the Member for Diego Martin Central, as a member of the last Cabinet, agreed to that also.

Mr. Valley: That is not correct. That is not correct, Mr. Speaker.

Hon. R. L. Maharaj: Mr. Speaker, the fact of the matter is that the policy in this Bill is that we will go with the fixed penalty point system. The reason for that is to enable the licensing authority to know what kind of drivers exist; because there are drivers who repeatedly break the laws with respect to road traffic regulations. Therefore, the points would accumulate in order to be determine whether they should have a driver's permit or not.

I do not believe that the hon. Members do not understand this Bill. What has happened here today is that they came here in order to try and obstruct the legislative agenda of the Government. Let me show, for the record, how it is so clear as to what we are doing. What we are saying is that for the fixed penalty matters—the offences which were under the ticket system—there are points. We are having the points on the basis that if, for example, it is a ticket offence involving a charge of up to \$60 there will be three points; for a ticket offence involving a fine between a certain amount there will be a certain number of points. There must be a rationale. The people who recommended this are not politicians. It was the people who are in the field—the police, the members of Ministry of Works and Transport—who have been involved in this and that is what they have been able to do. They do it on the basis of what the offence is; what is the quantum and the points awarded. If this is wrong then obviously we can come back to the Parliament and change it. The Minister can change it, but this is it. *[Interruption]*

Mr. Speaker, the Member is saying it is wrong now because he just wants to obstruct, but in 1993 he went to Cabinet and recommended this. He said this was the solution to the problem and the Cabinet agreed in principle for there to be the fixed penalty point and now he is saying that he does not want it. Let me explain. The hon. Members on the other side know that these points, as in the Bill now, are only for the fixed penalty matters; that is the ticket system matters. They know that. They also know that under the Bill, the President, the Cabinet or the Minister would have the power to change that from time to time and under the law it has to come here with an affirmative resolution under section 100 of the parent Act.

This penalty point system is dealt with in two of the Bills before us. Let us go now to the Bill to amend the Motor Vehicles and Road Traffic Act. Clause 3(2) states:

“For the purpose of establishing that it would not be in the interest of public safety for a person to hold a valid driving permit or that such a person is not competent to drive a motor vehicle, the President may make Regulations establishing a system of awarding penalty points against a person for the commission of an offence under this Act or the Motor Vehicles and Road Traffic (Enforcement and Administration) Act or the regulations made under this or that Act.”

It goes on to say that:

“The Regulations made under subsection (2) shall specify the maximum number of points to be awarded against a person before it may be established that it would not be in the interest of public safety for him to hold a valid driving permit or that the person is not competent to drive a motor vehicle.”

So, it was known by this legislation that we would not be establishing what would come to be known as the maximum points by this legislation. It was known also that under this Act that the President would make regulations for the establishing of a system awarding penalty points. So, what is the objection?

Dr. Rowley: Mr. Speaker, I do not know if I could assist the Attorney General in assisting me with my concern. Suppose, based on what he has said, I agree to support this measure and then subsequently I discover that 60 points is what gets you to the point of losing your licence would you say that I would have made a reasonable decision?

Hon. R. L. Maharaj: Mr. Speaker, why is this so difficult? These regulations have to come back. They have to come back to Parliament under section 100. Why it is that the Opposition do not read the law? These regulations have to come back to Parliament. In order to deal with the penalty points, the regulations under the Act have to come back to Parliament. However, Parliament would have an opportunity to deal with the quantum of the points that would determine whether someone would lose his or her licence by an affirmative resolution. We could have saved a lot of time today. *[Interruption]* How does the Member mean do it now? They had it for three years and they could not do it. Do it now.

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I want to put on the record that this hon. Member for Diego Martin East went to Cabinet in 1993 and he told Cabinet that there were deaths on the road and the only thing to solve the problem, as far as he was concerned—nothing there about public education programme, nothing about fixing highways, but there were two things—strengthen the existing ticket system for traffic offences—which is what we are doing now, and secondly, introduce an updated point system in which points are awarded to motorists for traffic offences and their driving permits are withdrawn or suspended for a specified period when a specific number of points have been accumulated by the holder; exactly what we are doing here now. Yet he gets up and says that is not the answer to the problem.

Mr. Speaker, he went on to recommend to Cabinet that when people break traffic lights, and break this light and go through that light, they are people who are repeat offenders in traffic offences and points should be accumulated against them in order for them to lose their driving permits over a period of time. He went on to point out that here it is, that under the existing system, at that time, there was no way for the Licensing Authority to be able to know which drivers do this all the time. He said that the only way to get to know that, is to introduce this system so that drivers would be able to do it.

Here it is, for cheap politics he gets up and says that this Bill is bad and he is not supporting it. Mr. Speaker, I wonder whether he can remember these words: the points system is designed to protect children, pedestrians and careful drivers from those accident prone, negligent drivers who abuse the privilege of driving a motor vehicle, referring to the high number of traffic accidents and deaths and injuries resulting from them. I wonder if he can remember that.

Mr. Imbert: I must have been out of the country. Somebody else was acting.
[*Laughter*]

Hon. R. L. Maharaj: I wonder if he can remember this? A point schedule was compiled which allotted a specified number of points for each conviction registered for a traffic offence. [*Laughter*] The courts would forward to the Transport Division information on the offenders and their convictions. Using this information together with the point schedule and the division's driving permits record, the division would be able to keep a file on the driving record of each offender. That is what this Bill is about, if I may tell the hon. Member for Diego Martin East.

Mr. Speaker, I wonder whether he can remember this. He has a very good memory, I wonder whether he could remember this? “The Minister of Works and Transport is of the opinion that historical road accidents injuries and all killings on the road, as well as the current bad driving habits of a large number of motorists dictate that the points system be introduced, revised and updated.” Then he attached the appendices; I wonder if he could remember these appendices? Let me see if he could remember them.

He talked about the point system and so forth.

Mr. Imbert: Stupidness! No good!

Hon. R. L. Maharaj: Talking about the same Schedule, the same matters which are here: for ticketable offences involving a charge of up to \$60, three points; for ticketable offences involving a fine between \$61 and \$90, five points; for ticketable offences involving a fine between \$91 and \$120, 10 points; for ticketable offences involving a fine between \$121 and \$150, 20 points; for ticketable offences involving a fine between \$151 and \$200, 30 points.

So he knows the rationale for having these points. The hon. Member for Diego Martin West was reading here as if these offences do not exist. For example, let us look at the First Schedule:

“1. Defaced or defected identification plates”

This is an offence; this is provided for in regulation, so when he reads and laughs about it—

“Motor Vehicles and Road Traffic Regulations, Chap. 48:50, Regulation 7”

All the regulations here, about having the identity and the number of passengers. They spent the whole morning, whole afternoon, whole evening talking about airport, bridge and all sorts of things, read all this, and for everyone, the offence, the enactment giving the regulations, the sub-rule and what the offence is. So I do not understand exactly what they are all about.

They came here today; they decided that the Government had these measures; we will talk and talk so it would get late, get the Government Members tired; we would then have to adjourn the House and they would be able to say that they have frustrated us.

Mr. Speaker, you heard how they came very nicely, and I saw it. They did not prepare anything. While they were reading and preparing some notes, they came here and said, “Let us take some time with this; do not let us do this tonight; I am sure when we come back we will be able to get consensus for this.”

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But I want to put this on record: I have taken the trouble of putting in writing the three factors which they have raised: certain offences to which the penalty points should be attached are not included. Section 11 of the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52, empowers the President by Order to add to or remove from the First Schedule any offence. Section 11 is now being amended to empower the President to add or remove any information with respect to penalty points.

I also have a note here which I will share with hon. Members of the House. In 1993 a technical team advised the Minister that this was the basis on which the government of the day should have gone.

The next issue is: penalty points should not be a part of a driver's permanent record. Mr. Speaker, the proposed legislation would provide for cancellation of accumulated penalty points only in the event of suspension or disqualification of the driver's permit. The legislation does not specify the maximum number of points, that would lead to it being established that it is not in the public interest for a driver to hold a valid driver's permit or a person not competent to drive a motor vehicle.

Mr. Speaker, the proposed sections 86A(2)—[*Interruption*]*—*that was your issue—and 86(4) provide for regulations to be made that would specify the maximum number of points referred to above and for the Licensing Authority to exercise its power to suspend the driver's permit where it is no longer in the public interest for him to hold a driver's permit.

So very simply, if one takes up the Motor Vehicles Road Traffic (Enforcement and Administration) Bill, one sees under clause 7 that the President has the power to amend the information in that Schedule. So even if it is felt that this information is not what they would agree to, it is something that the Ministry can consider and depending on what the position is, the Ministry would be able to take what matters they have into consideration.

In any event, Mr. Speaker, the policy of the legislation is that in relation to the fines and the fixed penalty, the points would be awarded and based on what is the fixed penalty the points would have been awarded and fixed. That is also in keeping with the policy on which the last administration, if I may say so, had agreed.

In respect of the Motor Vehicles and Road Traffic (Amdt.) Bill, it says quite clearly in clause 3(c)(3)—which amends section 86—that the regulations would be made in order to have this system of awarding penalty points against a person,

for the commission of an offence. It says that the maximum amount would be stated in regulations. At the committee stage I would amend that clause in order to make it quite clear, absolutely clear, that it would be prescribed by regulations which would mean that it is an affirmative resolution.

I do not think in respect of these measures that I should really go into many of the matters which have been raised. There has been a lot of criticism made that it is the Ministry of Works and Transport. As I understand from the Standing Orders any Minister could present any Bill. As a matter of fact, Mr. Speaker, may I say that in the other place the Attorney General presented the Bill and the Opposition and the Independent Senators gave full support to Government to the Bill. That is why I am saying that it does not seem as though the Opposition has a policy. But you know what that supports? That supports the fact that they came here today in order to try to obstruct our agenda.

So, Mr. Speaker, I beg to move. [*Interruption*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, we have a list of amendments proposed by the Member for Diego Martin Central. I take it that it has been circulated.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Valley: Mr. Chairman, I am suggesting that clause 5(2) be amended as follows:

“(5)(2)—Delete from ‘the clerk’ to the end of the sentence. Replace with the words ‘any court in Trinidad and Tobago.’”

7.10 p.m.

Mr. Maharaj: Can I get an explanation why?

Mr. Valley: I think that, first of all I am saying that if one is charged, especially under this point system, it must be placed on a database and therefore one ought to have the ability to pay that fine. The whole purpose of this

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legislation is to avoid inconvenience to the court and the individual. He is charged for a fixed penalty fine. He pays the \$60 but the penalty is \$150. I am saying that under the legislation as drafted, it means he has to go back to the area. I am saying that if there is that database he should be able to pay it anywhere and with the computer there ought to be an entry that payment is made at that point. I do not understand why it is one has to go—I might have gone to Tobago for Easter vacation and I am charged there. Do you really want that inconvenience of having to go back to Tobago to pay that fine?

Mr. Maharaj: Mr. Chairman, the person does not have to go himself. If I may explain what has happened here. Under the existing system that we have, if one has to pay a fine on a ticket system it has to be paid in the district. Even though it has to be paid in the district, it is not paid in the court, the information is not given to the court in time. When the matter comes up, the matters are adjourned and adjourned because whatever the reasons are, the information cannot be got. What is thought, apart from the other reforms, the policy is that the moneys must be paid to the clerk of the court in the district where the offence was committed. The person himself does not have to go to pay it, because it is normally not done like that. What happens is that the Licensing Authority—
[*Interruption*]

Mr. Valley: Could I do it by post?

Mr. Maharaj: —will have the records in relation to the point system because when the person goes to renew his driving permit, there would be a record there and there would also be a record in the court.

Mr. Valley: Let me ask then: how is that information transferred? I am charged by a constable in Belle Garden, Tobago; how is that information transferred from that point to the Licensing Office? If it is going to the licensing office. I am just thinking about a system in keeping with the intent of the legislation. Because I see this legislation as simplifying the procedures with respect to certain offences.

Mr. Maharaj: But there is a system of returns which would ensure that the records go to the Licensing Authority too. But at the present time the court in the district has it and the revenue office may have it. The revenue office only has it when the person who goes to pay the ticket gives that record.

I probably could understand the hon. Member for Diego Martin Central but I would ask him to try and remember that this is a matter in which all efforts were made to try and resolve it. As a matter of fact, if we leave it like this, it is going to become worse. So you have to have a system for the moneys to be paid in the district.

Mr. Valley: But is that not what it was under the existing legislation? A fixed penalty may be paid to the clerk at the office of the clerk at the Licensing Office. The same had to happen at the office of the clerk at the Licensing Office or the District Revenue Office.

Mr. Maharaj: We had that before.

Mr. Valley: That is what I am saying, and it did not work.

Mr. Maharaj: We only want to pay it to the clerk. When it is paid to the clerk, the court would know if the money is paid.

Mr. Valley: But could he pay it by post? If I am charged in Belle Garden and I am back in Trinidad could I send a certified cheque to the clerk of the court with the ticket or something of the sort, or do I have to go in person to pay it?

Mr. Maharaj: We explored by registered post and it could not be done by registered post because of difficulties—*[Interruption]*

Mr. Valley: So you are still not solving the problem.

Mr. Maharaj: In practice what happens, the people send other people to pay it or the people get a lawyer to pay it or something like that.

Mr. Valley: So you understand this is not going to work.

Mr. Maharaj: How do you mean it is not going to work? It is going to work because the moneys would have to be paid in the court. At the present time it is paid at the Licensing Office and other places, but it does not reach the court and we do not have a database in the public service throughout, in order to be able to pay it anywhere else; we just do not. If you put it anywhere else you are going to make it more bureaucratic and right know there is a heavy percentage of traffic cases that are just dismissed.

Mr. Valley: But Attorney General, can you see that if I have to do that: if I have to go to that court I am still inconvenienced? More than that, when I pay it I am now going to be getting points. Can you see that it is going to be worth my while if I have to go to that court, I will go on that day to argue my case to try and avoid not only the fine, but the accumulation of points? Can you see that is going to make for further clogging of the system and will defeat the whole purpose of the legislation?

Mr. Maharaj: Mr. Chairman, all this has been gone through. It is a policy matter. The technical people have looked into it. Studies have been done and you are probably very familiar with it and this is what—*[Interruption]*

Mr. Valley: I rest my case.

Mr. Maharaj: It is thought that this is going to solve the problem.

Mr. Valley: I rest my case.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6 ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Mr. Imbert: I see “add and remove” but I do not see “vary”. I heard the Attorney General when he was speaking say that one could add, vary or remove. Does add mean to vary?

Mr. Maharaj: Add includes vary.

Mr. Imbert: Add includes vary? Is that so? So taking away is adding?

Mr. Maharaj: Add to or remove.

Mr. Imbert: If I vary to reduce, is that adding?

Mr. Maharaj: I am guided by the technical draftsman and that is not necessary.

Question put and agreed to.

Clause 7 ordered to stand part of the Bill.

Mr. Chairman: It would appear, Member for Diego Martin Central, that your first column clause and deleting the reference to penalty points to be awarded in the First Schedule relates to clause 8.

Clause 8.

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

Mr. Valley: Mr. Chairman, thank you for that direction. I am suggesting—especially given that the other Bill provides for regulation, not only for the awarding of points, but also for stating the maximum number of points that one can accumulate before being suspended and taking the further point that, again it appears that with 79 offences listed here, when the main purpose of this legislation was to simplify a procedure—that we delete the reference to penalty points and provide it in the other piece of legislation. In other words, that is not going to—I know the Leader of the House feels that we come here to delay

legislation. I want to disabuse his mind. The regulation can come afterwards, as the intention. Because I cannot see how this could go into law in any case, before the President can state the maximum number of points one can accumulate. I am suggesting that we delete the reference to penalty points and leave this as a fixed penalty Bill, allowing for simplification and so on and provide in the other legislation—and it is already provided for—the regulations with respect to the offences which would attract points.

I suggest further that in undertaking that exercise, the Ministry of Works and Transport consider carefully which offences ought to attract points. I am not convinced that all 79 of these ought to attract points. More than that, I think there are some which are excluded that ought to be on the list. That is my submission.

7.20 p.m

Mr. Maharaj: Mr. Chairman, the Opposition Chief Whip has spoken to me about this matter and I have given anxious and serious consideration to it. When this administration took this matter—and I am very familiar with it, because it has taken some time both in policy formulation and in drafting, and this is the policy in the sense that having regard to all the studies which have been done and the advice which has been given, and ratios which have been used, it is thought that having regard to the penalty, the points would be awarded. These are the points for the people who have to enforce them: the police, the Ministry of Works and Transport, the Ministry of National Security have all looked at it and this is the policy which the administration has accepted.

It may be that the hon. Member could be right, or he may be proven to be wrong, but the fact of the matter is, at present I have to go with it in this way. I cannot do otherwise.

Mr. Imbert: Mr. Chairman, if the policy is that the points to be awarded are proportional to the quantum of the penalty and, therefore, the points flow from the quantum of the fixed penalty, it should be clear that some of these penalties are inconsistent. In terms that the fixed penalties, whether it is \$60.00, \$150.00 or \$200.00 according to the severity of the offence, it should be obvious that some of the fixed penalties are not consistent and, therefore, the application of points by simply applying a ratio is compounding the error that already exists in terms of the fixed penalty.

So there are fixed penalties that are wrong, obviously, and you are now taking those wrong penalties and applying a simple formula to get wrong points. Why would you want to do that? It is obvious that some of these things are wrong.

Mr. Maharaj: Mr. Chairman, all I can say is that the people who have to work it, the technical people, have indicated to us that this is the way it should be and the ministry and Cabinet have accepted it and a lot of time has been spent on this to see whether there can be a different formula.

Much effort has gone into it and, unfortunately, I cannot really do any other thing. I cannot accept what you are asking me to do, because as the hon. Member for Diego Martin East would have known, this is something which would have engaged his attention for a long time before he went in 1993, and from 1996 to now, it has engaged our attention for a long time.

Mr. Imbert: Mr. Chairman, from a cursory reading of the Bill, this would result in unbalanced penalties and points. Can the Attorney General not see that?

Mr. Maharaj: I indicated to the people who are here with us that I would give an undertaking that it would be looked at again, but I cannot look at it now. In any event, if it has to be changed, it would be with the Regulations.

Mr. Imbert: Could the Attorney General therefore give an undertaking that, when he brings the Regulations to deal with the maximum, he would review all these things?

Mr. Maharaj: I am not giving an undertaking to review it, I am giving an undertaking that it will be looked at. I cannot give an undertaking that it be reviewed. To be reviewed, you will use it and say that I agree. I am giving an undertaking that the Government will look at it again when it is considering the Regulations.

Mr. Chairman, may I point out that there is a typographical error in the Bill in number 7 which says: "No tare m g w painted on vehicle." That was reduced to \$200.00 in the Senate and it is appearing again on the Bill. I did not want it to go without pointing it out to you.

Mr. Valley: Mr. Chairman, I wondered whether the technicians, through the Attorney General, can inform the House whether they looked at other systems. For example there is a point system in North America.

Mr. Maharaj: Mr. Chairman, the Ministry of Works and Transport looked at all systems in this matter and there is nothing more I could really say on it.

Mr. Valley: May I ask further, Mr. Chairman, whether in looking at the system they found any precedent to suggest that this is the right way to go in this matter, and if so, can they refer me to that precedent?

Mr. Maharaj: Mr. Chairman, I do not think I want to ask the Ministry of Works and Transport's officials to give me—I undertake that I will look at it and when it returns, I will probably give him that information, but I do not think I want to go that way. It would be unfair to ask the officials that.

Mr. Imbert: Mr. Chairman, how would one impose the points to the offences relating to cyclists? I am not sure what the number is, but there were two offences related to cyclists, one holding on to a vehicle and one not holding the handle bars.

Mr. Maharaj: Mr. Chairman, in any event, the Regulations have to come back. Do you want to change it? Under the Regulation, it refers to motor cyclist.

Mr. Imbert: Really? A motor cyclist holding on to a vehicle? Why is he doing that, his engine break down?

Mr. Maharaj: Mr. Chairman, can we amend 71 and 72 just for clarity of the motor cyclist.

Mr. Imbert: A motor cyclist holding on to a vehicle? This is from the sublime to the absurd!

Mr. Maharaj: Mr. Chairman, I beg to move that clause 8 be amended as follows:

“In the proposed new First Schedule, insert the word ‘motor’ before the word ‘cyclist’ appearing at the beginning of paragraphs 71 and 72.”

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendments, read the third time and passed.

7.35 p.m.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that a bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50, (Introduction of Offence of causing death by dangerous driving), be now read a second time.

Question put and agreed to.

Motor Vehicles (Amdt.) Bill

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Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clauses 1 to 7 ordered to stand part of the Bill.

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.

PROCEDURAL MOTION

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, before I move the next matter can I move the procedural Motion?

Mr. Speaker, I beg to move that the House do continue to sit until the House completes the debate on Bills Nos. 4 and 5.

Mr. Speaker: Hon. Members, the question is, that notwithstanding the hour, this honourable House would continue to sit until the conclusion of Bills Nos. 4 and 5.

Question put and agreed to.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that another Bill entitled, "An Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50, (Introduction of Traffic Wardens and Penalty Points), be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in Committee.

Mr. Chairman: Hon. Members, we have two sets of amendments that are circulated. One, from the Member for Diego Martin Central, which is on the back of the amendments which we did to the first one. And the other, a list of amendments which have been circulated by the hon. Attorney General in which clause 3 is involved; and in the other, in which clause 3(4) is involved.

Mr. Chairman: Is it clause 3(c) you mean?

Mr. Valley: No, Mr. Chairman, clause 3(4).

Mr. Chairman: Is there a clause 3(4).

Mr. Valley: Yes, there is.

Mr. Chairman: Not really.

Mr. Valley: Oh, I am sorry, clause 3(c) (4). Just before subclause (4) as a matter of fact.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3:

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

Mr. Maharaj: Mr. Chairman, I wish to move that clause 3 be amended in terms of the circulated draft, as follows:

In the proposed section 86A(2), delete the words “make Regulations establishing a system” and substitute the words “prescribe by Regulations, a system.”

Mr. Chairman, the reason for that amendment is to make it absolutely clear that these are being made by regulations under section 100 of the parent Act, which requires an affirmative resolution. Section 100 reads:

“Subject to affirmative resolution of Parliament, the President may make Regulations in respect of all or any of the following matters:

(a) anything which by this Act may or is to be prescribed;”

So that what we are doing, we are saying that the President may prescribe by regulation, a system, *et cetera*.

Mr. Valley: Mr. Chairman, that confuses me a bit more. Because if under this Act we are saying that the President may prescribe legislation—and I assume “may” means they will prescribe regulations, under what authority, therefore—if you are saying that must come by affirmative resolution, why are we putting those penalty points in the other Bill? I mean, here the whole clause talks about the President now prescribing regulations, setting out offences and penalty points, but yet in another Bill, without those regulations, you have those penalty points. It just confuses me. I mean, I agree with what is being done here, but I would argue that, really, all the offences and penalty points should be done under this legislation here. But, I am no lawyer, and it confuses me—

Mr. Maharaj: Mr. Chairman, the Parliament has dealt with that and the Parliament would have to deal with this also, when it comes by affirmative resolution.

7.45 p.m.

Mr. Imbert: Mr. Chairman, the question that is raised in this amendment by the Member for Diego Martin Central—*[Interruption]* We have not reached it? Okay, but may I ask, would the drafting as presented here incorporate this issue that is being raised, that the regulations may allow for time periods for the points? Exactly what policy do these regulations have in them?

Mr. Maharaj: Well I would have thought that what is mentioned here, if you look at proposed section 86A. (3), it says that:

“The Regulations referred to in subsection (2) shall specify the maximum number of points to be awarded against a person before it may be established that it would not be in the interest of public safety for him to hold a valid driving permit...”

Mr. Valley: That is not what I am saying. I am saying, Mr. Chairman that if on X day, May 1, 2000—*[Interruption]*

Mr. Maharaj: But would all that not be in the regulations?

Mr. Valley: Well, no, it does not say. I am merely asking for that to be included. That is what this amendment is saying, that the Regulation would also state the period and any penalty points awarded will remain on the person’s driving record. Because if I get penalty points it cannot last forever.

Mr. Maharaj: It would be included in the Regulations.

Mr. Valley: Well, could we simply put it in, in the fullness of—*[Interruption]*

Mr. Maharaj: We do not need to amend there. It is covered.

Mr. Valley: Where is it covered, Mr. Chairman? Mr. Chairman, there is already an amendment and if the hon. Attorney General—*[Interruption]*

Mr. Maharaj: By the amendment, “the President may prescribe by Regulation a system so and so” and under section 86A. (3):

“The Regulations referred to in subsection (2) shall specify the maximum number...”

[Interruption]

Mr. Valley: Well, could we just add there:

“...and the period of time”

Or:

“...any penalty points would remain on the person’s driving permit, any penalty points awarded...”

Because I am speaking about a specific—is he taking the point?

Mr. Maharaj: Where do you want to put it?

Mr. Valley: Well, the amendment here I considered a new subsection but I think we can include it under the proposed section 86A. (3):

“The Regulations referred to in subsection (2) shall specify the maximum number of points and the period of time they will remain on the person’s driving record.”

The concept is that if I get 30 points on May 1, 2000—[*Interruption*]

Mr. Maharaj: I understand what you are saying. Would you give me a second, please, Mr. Chairman?

Mr. Chairman: Sure.

Mr. Maharaj: What we can do, Mr. Chairman, is accommodate the amendment of the hon. Member for Diego Martin Central by adding it after the word, “vehicle”, in section 86A. (3).

Mr. Chairman: What shall the wording be?

Mr. Maharaj: “...and the period during which penalty points shall remain on a person’s driving record”. Mr. Chairman, I do not—[*Interruption*]

Mr. Chairman: If you do that it shall now read:

“The Regulations referred to in subsection (2) shall specify the maximum number of points to be awarded against a person before it may be established that it would not be in the interest of public safety for him to hold a valid driving permit or that the person is not competent to drive a motor vehicle and the period during which penalty points shall remain on a person’s driving record.”

Mr. Maharaj: Mr. Chairman, that is all right but we do not need the word, “penalty”. We used points before so we will have to delete penalty.

Mr. Chairman: “during which points”?

Mr. Maharaj: “Points”. I do not want to make it a little more—if we could put two paragraphs we could put:

“...shall specify,

(a) the maximum number of points...”

Then after the words, “motor vehicle” we put a semicolon and say:

“...and

(b) the period during which the points shall remain on a person’s driving record.”

Mr. Chairman: Okay, so it shall then read:

“The Regulations referred to in subsection (2) shall specify:

(a) the maximum number of points to be awarded against a person before it may be established that it would not be in the interest of public safety for him to hold a valid driving permit or that the person is not competent to drive a motor vehicle; and

(b) the period during which points shall remain on a person’s driving record.”

So, hon. Members, clause 3, therefore, would be amended in terms of the circulated draft of the Attorney General and that in clause 3(c) proposed section 86A. (3) after the word, “specify” there should be included an (a) and after the word, “vehicle”, there should be included the words, “and, (b) the period during which points shall remain on a person’s driving record”.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendments, read the third time and passed.

FINANCIAL (MISCELLANEOUS PROVISIONS) BILL

Order for second reading read.

The Minister of Tobago Affairs and Minister in the Ministry of Tobago Affairs (Dr. The Hon. Morgan Job): Mr. Speaker, I beg to move,

That a Bill to amend certain legislation of a fiscal nature and to provide for related matters be now read a second time.

Mr. Speaker, the Bill that is before this House contains legislative proposals which are intended to tighten existing legislation to make it more efficient and to provide mechanisms to facilitate growth in the financial and social sectors of the economy in Trinidad and Tobago. As stated in the budget presentation in October of last year, new taxes had not been imposed and existing taxes had not been increased. Hon. Members will note that there was no Provisional Collection of Taxes Order following from the Appropriation Bill for the financial year 1999/2000 which was to provide for the provision of a new tax or the variation of an existing tax. This Bill simply seeks to tidy up the existing financial legislation to make it more efficient and effective.

I will now deal with the Bill by its clauses. Part I of the Bill cites the title of the Bill and is self-explanatory. In Part II of the Bill, the Provident Fund Act, Chap. 23:57, is to be amended. This House will no doubt recall that in 1998 the Financial Year Act of 1998, Act No. 23 of that year, changed the definition of financial year. The new financial year for the purposes of the Constitution and the interpretation of the Act now commences on October 1 and ends on September 30.

A Provident Fund was established over 65 years ago in 1934 for the benefit of daily-paid employees in the Government service. Both employees and the Government are required to contribute to this Provident Fund and gratuities are paid to employees or their representatives when they retire or otherwise terminate their employment after having completed a certain number of years of service. In each year, interest is added to the contributions made on account of the daily-paid employee. At present, section 31(2) of the Provident Fund Act stipulates that this interest can only be added to the capital remaining in the employee's account on December 31 in each year.

Mr. Speaker, the annual accounts of all transactions of the Provident Fund are dealt with as part of the public accounts of Trinidad and Tobago and are prepared by the Comptroller of Accounts. The financial statements of that fund are submitted by the Comptroller of Accounts to the Auditor General within a period of four months after the end of each financial year. As I have mentioned earlier, the financial year now ends on September 30. Because of the special wording of section 31(2) of the Provident Fund Act, the Comptroller cannot, in the preparation of the public accounts of the state, add the interest accruing to depositors of the Provident Fund on September 30. The Comptroller of Accounts has to wait until December 31 before adding such interest.

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8.00 p.m.

This means that, whereas the financial statements show the capital as at September 30, the interest is added to the capital on another date, that is December 31. To remove this anomaly, it is proposed that section 31(2) of the Provident Fund Act be amended to coincide with the new financial year so that the interest can be added to the capital on the last day of each financial year for the purpose of the preparation of financial statements by the Comptroller of Accounts.

It is further proposed that section 31(2) of the Provident Fund Act be amended so that the expression “financial year” is referred to instead of stating the date on which the interest is to be added to the capital belonging to a depositor. The amendment in this form will allow for any further changes to the expression “financial year” in the Constitution to apply automatically without the need for consequential changes to be made to the Provident Fund Act.

Mr. Speaker, you will also observe that section 3 of the Provident Fund Act uses a calendar year as the basis for calculating a depositor’s non-effective year of service. In this regard, this House will note that a non-effective year is a period when a depositor has worked for less than two hundred days in a calendar year and this period is excluded for the purposes of calculating the service of a depositor. The fact is that the financial year is no longer the same as the calendar year.

It is proposed that the computation of the service of a depositor for a non-effective year be amended so as to coincide with the new financial year. The period of account between January 1, 2000 and September 30, 2000 during which the depositor has worked less than 150 days—a non-effective year—shall be excluded in the computation of the service of a depositor. Thereafter, any financial year commencing October 1, 2000 in which the depositor has worked less than two hundred days will be excluded in computing the depositor’s service. Mr. Speaker, it is proposed that the amendments to the Provident Fund Act, Chap. 23:57 be retroactive to January 1, 2000.

I will now deal with the amendment to the Housing Act, which is to be found at Part Three of the Bill. The general purpose of this amendment is to provide a mechanism for returning certain moneys to the Consolidated Fund. By the former section 17(1) of the Housing Act, the Treasury had established a fund known as the Mortgage Insurance Fund. I have referred to section 17(1) as “the former section 17(1)” since this provision, together with sections 14, 15, 16 and 18 of the Housing Act have since been repealed. All insurance fees received by the National Housing Authority from homeowners pursuant to sections 14 and 15 of that Act were required to be paid into the Mortgage Insurance Fund.

By section 12 of the Housing Act, the National Housing Authority was made the guarantor of mortgages. In the event the homeowner defaulted in his mortgage payments, his house could be put up for sale by the lending institution.

Section 13 of the Act required the National Housing Authority to pay over to the mortgagee the difference between the net amount realized on the sale of a house and the amount owing under the mortgage.

Section 16 of the Act also required the National Housing Authority to purchase any house where it was put up for sale by the mortgagee in the exercise of his powers of sale under the mortgage. The moneys for such purchase were to come from the Mortgage Insurance Fund.

Mr. Speaker, the Mortgage Insurance Fund has never been utilized and the Trinidad and Tobago Mortgage Finance Company Limited has advised that all mortgages covered by the fund have been fully redeemed. In fact, the fund was effectively closed off by an amendment to sections 12 and 13 of the Housing Act in 1980 and subsequently by the repeal, in 1981, of sections 14 and 18 of that Act.

Mr. Speaker will also note that moneys standing in the account of the Mortgage Insurance Fund may only be withdrawn from that fund in accordance with the provisions of the Housing Act. Since all the mortgages covered by that fund have been fully redeemed, no money can lawfully be withdrawn. However, because the Mortgage Insurance Fund was not established under section 43 of the Exchequer and Audit Act, Chapter 69:01, there can be no automatic absorption into the Consolidated Fund of the sums outstanding in that fund pursuant to section 43 (4) of that Act. Clause 3 of the Bill, therefore, seeks to amend the Housing Act to allow for the absorption into the Consolidated Fund of the principal and interest standing to the credit of the former Mortgage Insurance Fund.

Mr. Speaker, I will now turn to Part Four of the Bill, which seeks to amend sections 5A(2), 8(1), 10, 10B and 33 (2) of the Income Tax Act. At Clause 5(a) of the Bill, the amendment to section 5A(2)(d) of the Income Tax Act is intended to plug a loophole which now exists in the law. The current section 5A(2)(d) states that the business levy provisions shall not apply to the gross sales or receipts of the business of a person who had not been in that business for a period of three years from the date the business was registered.

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The Board of Inland Revenue has reported that there is scope for abuse by persons, particularly sole traders, who would continually change the names under which their businesses are registered in order to benefit from the three-year business levy exemption. Even though the person may have continued in the same line of business, he may decide to change the registered name of his business so that the business levy exemption provision would apply. To avoid this problem, it is proposed that section 5A (2)(d) be amended so that the business levy exemption will only apply to the gross sales or receipts of the business of a person “for a period of three years following the commencement of the trade, business or profession.”

Mr. Speaker, businesses are required to notify the Board of Inland Revenue of the date on which they have commenced their business operations. The three-year exemption will, therefore, be reckoned from the date stated in the records of the Board as the commencement date of the trade, business or profession and not the date on which the business is registered at the Registrar of Companies.

I will move on to Clause 5(b) of the Bill which seeks to amend section 8(1) of the Income Tax Act. Section 8(1)(p) of the Income Tax Act currently exempts from tax the interest on savings or other accounts held with financial institutions and payable to a resident individual who has attained the age of 60 years. The Income Tax Act also exempts from tax interest payments made on bonds and other similar instruments payable to a person who has attained the age of 60 years.

Mr. Speaker, several senior citizens have included their spouses' names in their investments solely for survival benefit purposes. However, because of the current formulation of the legislation, the interest derived from these investments is subject to the payment of tax, due to the fact that one of the owners of the investment is under 60 years. To avoid having to pay the tax, these 60-year old taxpayers will have to remove their spouses' names from their investments, which course of action would defeat the purpose of the names being put there in the first place.

8.10 p.m.

In order to provide relief to these taxpayers, it is proposed that the Income Tax Act be amended so that, where an investment is held by spouses, one of whom has attained the age of 60 years, the interest paid or payable in respect of such investment will be exempt from the payment of income tax on the following condition. It must, however, be shown to the satisfaction of the Board of Inland Revenue that the funds comprising the account or used to purchase the investment have been derived from sources belonging to the spouse who has attained 60 years.

The proposed amendments concerning the investment income of our senior citizens are to be found at clauses 5(b) of the Bill. The proposed amendment relating to spousal investments also takes cognizance of common law relationships which are now an accepted phenomenon in our society.

For all intents and purposes, the parties in a common law union function as husband and wife and the law needs to recognize the realities of our situation. It is, therefore, proposed that section 8 of the Income Tax Act be amended so that the expression "spouse" will be defined to include a person in a common law relationship.

A person who lives with the joint owner of the account, as husband or wife although not legally married to that person, will be considered a spouse for the purposes of the exemption in sections 8(1)(p). The proposed amendment to section 8 of the Income Tax Act is at clause 5(c) of the Bill.

Mr. Speaker, you will recall that the Finance Act 1998 introduced a new section 10(4) of the Income Tax Act to provide for a deduction of up to \$18,000 with respect to mortgage interest and tertiary education expenses. *[Interruption]* Tertiary. The Board of Inland Revenue has noted that since the introduction of this provision, there has been a great deal of uncertainty as to its effect. In other words, whether the provision for tertiary level expenses applies only to spouses who jointly own property. It is unclear whether a single person with a child can claim these expenses. This is clearly not the intention of the Government. At Clause 5(d) of the Bill, the provisions relating to the mortgage interest and tertiary educational expenses have been placed in separate provisions to allow for greater clarity.

Mr. Speaker, you will also recall that the year of income 1998 saw the introduction of an allowance of 150 per cent of the expenditure incurred by an employer towards training and developing employees. Within recent times, the private sector has been offering scholarships to qualified nationals of Trinidad and Tobago to pursue selected undergraduate and post-graduate degrees at local and foreign educational institutions. Many of these selected nationals are not employees of the donors so that contributions towards the scholarships are not allowed as deductions in arriving at the chargeable profits of the donors.

In keeping with the Government's emphasis on, and commitment to education and in order to encourage potential sponsors to participate in the sponsoring of bright, deserving nationals, the legislative proposal at clause 5(e) of the Bill is presented before this House. It is proposed that the amount paid under the tertiary education scholarship granted to a national by a person carrying on a trade, business, profession or vocation be allowed as a deduction in ascertaining the chargeable profits of the sponsoring business. However, the allowable expenses should only be in respect of educational institutions and areas of study accredited by the Ministry with responsibility for education.

In order to limit any possible abuse, it is proposed that where scholarships are granted to family members of the grantor, there should be no deductions on the value of those scholarships. Mr. Speaker, you will observe at Clause 5(e) of the Bill that new subsections 10B(2) and (3) are to be inserted to allow for such deductions by sponsoring businesses. It is proposed that this amendment to the Income Tax Act, Chap. 75:01, take effect from January 1, 2000.

In case Members come to the conclusion that I have omitted to deal with the amendment at clause 5(f) of the Bill, this legislative proposal will be considered in greater detail when I am dealing with amendments to the Insurance Act.

Mr. Speaker, I will now turn to Part V of the Bill. The proposal underlying the amendment to section IOF of the Corporation Tax Act is intended to stimulate the market for trading in tax exempt bonds or other similar debt instruments. The proposed amendments to the Corporation Tax Act are already contained in the Corporation Tax (Amdt.) Bill, 1999, which is before this House. That earlier Bill will be withdrawn since the provisions of that Bill are now part of the Bill which is currently being debated by this House.

The proposed amendment would allow the expenses incurred in investing in tax-exempt debt securities as a deduction in ascertaining the chargeable profits of the taxpaying investor. This proposal is intended to benefit only corporate taxpayers. Although a relatively small amendment, the proposed amendment has far-reaching consequences and is intended to facilitate further growth and development in the financial sector.

The existing legislation is unclear as to the tax treatment of expenses incurred in earning tax-exempt income. The Bill that is now engaging the attention of Members of this House seeks to address the uncertainties in the law, which have hampered development of initiatives in the banking and insurance sectors.

The general proposition under the existing law is that a taxpayer can, for the purpose of ascertaining his chargeable income, claim as a deduction all outgoings and expenses wholly and exclusively incurred in the production of income from a particular source. The test as to what deductions may be allowed in arriving at the chargeable income of a taxpayer is a strict one and many items of expenditure fail to pass that test. In fact, Mr. Speaker, it has been disputed whether the expenses incurred by a taxpayer in earning tax-exempt interest income derived from bonds and other debt securities may be deducted by the taxpayer in ascertaining his chargeable income. As a result, many institutional investors are not attracted to the idea of investing in tax-free interest coupons derived from bonds and other debt securities. The reason for this is that these investors are uncertain as to whether they can deduct the costs incurred in acquiring the tax-free interest coupon in arriving at their chargeable profits.

Mr. Speaker will note as well that this dispute is further fuelled by the fact that there is an expressed provision in the Income Tax Act, which specifically allows for the deductibility of expenses incurred in earning certain tax-exempt income. Section 45 of the Income Tax Act applies to the provisions governing allowable deductions to certain tax-exempt income under section 42 of that Act, which relate to housing. In other words, the expenses and outgoings incurred in the production of tax-exempt income from premia and rents derived from the letting of newly constructed houses, will be allowed as deductions in arriving at the chargeable income of the owners of those houses. This provision was enacted in 1988.

In addition, the expenses relating to the earning of tax-exempt income derived from interest on and the service charge payable under a loan guaranteed by an approved mortgage company for the construction of a house are also allowable as a deduction in ascertaining the chargeable income of the persons earning that tax-exempt interest and service charge. Given the specific provisions in the taxing statute, where it is intended that expenses should be allowed against tax-exempt income, there is some ambiguity as to whether the expenses which are not expressly allowed can, in fact, be deducted in ascertaining the chargeable income of the recipient of that income.

Mr. Speaker, the experience of financial institutions in placing tax-exempt bonds on the market is not very encouraging since many of the providers of long-term funding are themselves non-taxable or low-taxable entities and find the tax-exempt bond issues very unattractive. It is felt that market activity in respect of tax-exempt bonds will increase if corporate taxpayers are allowed to deduct the expenses incurred in earning the tax-exempt income from their other sources of income.

Capital market development as well as financial sector expansion have been emphasized in the medium term policy of this Government. This development is to be facilitated by formulating and implementing policies that encourage new entrants into the domestic market and increase the number of financial instruments available for investment. Several financial products are also being developed to facilitate beneficiaries in the manufacturing and housing sectors. Government, as facilitator of further growth and development in the economy, will continue to develop the legislative framework necessary to encourage financial growth.

By the proposed amendment to the Corporation Tax Act, the cost of acquiring tax-exempt income derived from debt securities will be allowed as a deduction in ascertaining the chargeable income of an investor. This proposed amendment is intended to benefit only corporate taxpayers. Mr. Speaker, the transaction involves, to a very limited extent, the stripping of securities. For instance, bonds may be stripped so that the holders of these bonds sell the interest income derived from these bonds to institutional investors.

Mr. Speaker, you may have what is referred to in the financial sector as bearer bonds; that is to say, bonds with interest coupons attached to the bond. The interest coupon is detachable from the bond and is a negotiable instrument, which may be sold to a corporate investor. The owner of those bonds may enter into a contract with the corporate taxpayer so that the interest payable under the bonds is now to be paid to the corporate taxpayer. The consideration under the contract will, under this new amendment to the Corporation Tax Act, be allowed as a deduction in ascertaining the chargeable profits of the corporate taxpayer.

The question as to the deductibility of expenses only becomes an issue in respect of tax-exempt income because of the ambiguity in the existing law. These expenses would ordinarily be allowed as a deduction were the income not exempt from taxation. It must be emphasized that this amendment will not do away with the requirement to satisfy the Board of Inland Revenue that the expenses are wholly and exclusively incurred in the production of the tax-exempt income.

Mr. Speaker, I am aware of the argument that the expenses relating to the transactions contemplated by the proposed amendment are already allowable under the existing legislation. I am also aware of the fact that the uncertainty in the law is preventing many corporate taxpayers from investing in several financial instruments because they are not sure whether the costs related to the investment would be allowed as a deduction by the Board of Inland Revenue. [*Interruption*]

Mr. Valley: Mr. Speaker, if the hon. Member would give way, I just want to ask: I know that he is talking about the Corporation Tax Act at this time. I wonder whether a similar provision is included for an individual and if not, why not? I also wonder whether you have taken into consideration to zero coupon bonds and whether there would be an applied interest income on zero coupons in your amendments?

Mr. Assam: Imputed interest.

Mr. Valley: Yes, implied, imputed.

Dr. The Hon. M. Job: I spoke earlier on that particular matter you mentioned, of corporate taxpayers, but the other questions that you raised, I will try to answer them in my winding up.

As a responsible Government, we cannot ignore what is happening in the market and it is important that quick responses are given where appropriate. Mr. Speaker, the proposed amendment to the Corporation Tax Act will provide certainty to investors and facilitate the further development of the local capital market by widening and deepening the potential funding sources for tax-exempt instruments. Some of these tax-exempt instruments are issued by financial institutions to fund housing and other projects. Innovative financing mechanisms are being designed to facilitate beneficiaries at the lower end of the economic ladder who have encountered enormous difficulties in accessing financing for acceptable and affordable housing.

8.25 p.m.

The proposed amendments to the Corporation Tax Act are to take effect from January 1, 1998 to give comfort to those institutional investors who have already committed themselves to these financial instruments in the year of income 1998 and are expecting that the expenses related to the acquisition of these instruments will be allowed as a deduction by the Board of Inland Revenue.

Mr. Speaker, I will now examine the amendments to the Estate Duty Act, which are at Part VI of the Bill. It will be recalled that estate duty was abolished from January 01, 1981 so that no estate duty is now payable on the value of the owner-occupied property of a person who died on or after January 01, 1981. Succession duty was abolished earlier in 1979.

Although estate duty has been abolished, the Board of Inland Revenue is still administering estate duty in respect of the estates of persons who died prior to January 01, 1981, as far back as the 1940s. Over the years, the number of estates which the Board has had to deal with, has declined considerably, from approximately 1,000 new cases per year in 1981 to approximately 400 new cases being submitted within the last five years.

In addition, the Board of Inland Revenue is also required to issue certificates in respect of the estates of persons who died after December 31st, 1980, indicating that no estate and succession duties are payable. To date, the amount outstanding on estate duty is approximately \$2 million. Of this, there are 53 matters outstanding in which the estate duty is in excess of \$10,000. The balance of the matters involving estate duty is below \$10,000 and some are as low as \$1,000.

In an effort to simplify the administration of taxes and to eliminate nuisance taxes, it is proposed that the estate duties payable in respect of the estates of persons who died before January 01, 1981 be remitted or waived completely. The Estate and Succession Duties Act, Chap. 76:02, is to be repealed and from the date when the Financial (Miscellaneous Provisions) Act comes into operation, no estate duties will be payable by anyone.

I should quickly point out that this proposal is not intended to benefit estates in respect of which estate duty was paid prior to the coming into effect of the Financial (Miscellaneous Provisions) Act. In other words, there will be no refund of estate duties which have already been paid.

Mr. Speaker, with respect to that part of the Bill which deals with estate duty, that is, clause 9(2), the present wording of the clause is unclear and it may be subject to misconstruction as to its meaning. I propose to amend clause 9(2) to avoid any possible confusion as to its meaning. The proposed amendment is that the word "remitted" at line 3 of clause 9(2) be replaced by the word "waived". I think the reason for that is that people do not think when one says remit they could claim a refund. The amendment, as you will note, does not affect the substance of the provision. I intend to move an amendment to clause 9(2) at the committee stage of the Bill.

Mr. Speaker, Part VII of the Bill deals with amendments to the Insurance Act, Chap. 84:01. As I had indicated earlier on when I was discussing amendments to the Income Tax Act, I will also consider the amendment to be made to section 33(2) of the Income Tax Act since it relates to insurance business.

I will deal firstly with the amendment to the Income Tax Act, as it relates to insurance companies. This amendment is to be found at clause 5(f) of the Bill.

This House will remember that the Insurance Act was amended by the Finance Act of 1998 to allow insurance companies to transact business in any currency. This amendment allows for the payment of benefits in the currency in which the premiums are paid. However, this provision is in direct conflict with the Income Tax Act, as it relates to approved pension funds and deferred annuities.

Under section 33 of the Income Tax Act, no deduction shall be allowed in respect of any contribution made to any approved fund, plan or scheme, unless the benefits payable under such fund, plan or scheme, are payable only in the currency of the East Caribbean currency authority or in the currency of Trinidad and Tobago.

Where premiums are payable in a foreign denominated currency, the Income Tax Act requires the benefits payable in a foreign denominated currency to be converted into Trinidad and Tobago currency within a reasonable period of time. This provision effectively discourages the transaction of insurance business in a foreign denominated currency.

In order to remove the currency restrictions governing approved fund, plans or schemes; the proposal at clause 5(f) of the Bill seeks to address this issue. This proposed amendment should take effect from the date of the coming into operation of the Financial (Miscellaneous Provisions) Act, 2000.

I will now deal with the amendments to be made to the Insurance Act. Members should return to Part VII of the Bill.

Mr. Speaker, the decision of this Government to permit local insurance companies to issue insurance policies in foreign currency is intended to allow local insurers to compete with their foreign counterparts who were offering foreign products locally through the Internet and other means. The intention was to retain the ratio of 80 per cent for local investment in respect of Trinidad and Tobago dollar liabilities and to introduce a new ratio of 80 per cent for foreign investment in respect of foreign currency liabilities.

The Insurance Act was therefore to be amended to allow foreign denominated liabilities to be supported by foreign assets, so however, that the maximum amount invested should not exceed 80 per cent of such liabilities. We did not get the formulation right on the last occasion in 1998. I trust we should get it right this time around.

The amendment to section 47(1) of the Insurance Act is to take effect from the date of the previous amendment to that provision in 1998.

Mr. Valley: Do you understand what you are reading.

Dr. The Hon. M. Job: Mr. Speaker, you will again recall that section 195 of the Insurance Act was amended by the Finance Act, 1998, by deleting the whole of subsection (1) thereof and substituting a new subsection (1). By this amendment, where a policy is issued after January 01, 1999 and the premiums in respect of that policy are payable or paid in Trinidad and Tobago, the premiums may be payable in any currency and the policy proceeds are payable or paid in the currency in which the premiums were paid.

As a result of the amendment to section 195(1) of the Insurance Act, there is now no provision in the Insurance Act governing the treatment of pre-1999 policies. Prior to this amendment, where the premiums in respect of policies issued after October 05, 1966 were payable, or paid in Trinidad and Tobago, both the premiums as well as the policy proceeds were payable in Trinidad and Tobago currency.

Section 195(1), as previously formulated prior to the amendment of the Finance Act, 1998, is therefore to be revived in its original form and numbered as section 195(1), except that those provisions should relate only to policies issued after October 05, 1966 but before January 01, 1999. The amendment to section 195 of the Insurance Act which was effected by the Finance Act, 1998, is to be retained and renumbered as section 195(1A), except that the new period should be "on or after January 1, 1999" and not "after January 1, 1999".

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Mr. Speaker, I will now deal with the proposed amendments to the Income Tax In Aid of Industry Act which are to be found at Part VIII of the Bill. The amendments take us to the subject of lease financing.

The growth of worldwide leasing began in the 1950s. Statistics published in the *World Leasing Yearbook* reveal that the volume of total leasing for 1997 amounted to US \$405.8 billion and it is estimated that leasing represents a major source of capital for new investment and financing, an estimated one-eighth of the world's plant and equipment every year.

8.35 p.m

In Trinidad and Tobago, finance houses have long offered leasing. However, the 1990s saw an increase in the number of new entrants from among the commercial and merchant bank sector, with as many as five new entrants over a period of five years.

The regulatory framework underlying leases in Trinidad and Tobago is comprised of four elements namely: legal, accounting, corporation tax and value added tax (VAT) and revolves around the issue of ownership. In all except the field of accounting, form takes precedence over substance, with the legal owner of the asset being able to easily retrieve physical possession in the event of default or termination.

In the case of corporation tax, the lessor is deemed the owner of the asset and claims the wear and tear allowance and it is also the lessor, in the case of VAT, who pays VAT on the purchase of the asset and recovers or charges VAT on each lease payment made by the lessee.

Finance leases have been utilized in the commercial and banking sectors. A finance lease has been defined by International Accounting Standard (IAS) 17 as a lease under which the lessor transfers substantially all the risks and rewards of ownership of an asset to the lessee although the legal title to the assets may not always be transferred to the lessee.

What constitutes "substantially all" will depend on the particular facts and circumstances. For the purpose of determining whether a lease is a finance lease, one or more of the following criteria must be present:

- Ownership of the property is transferred to the lessee by the end of the lease term;
- The lease contains a purchase option;

- The lease term, at inception, is substantially (that is 75 per cent or more) equal to the estimated economic life of the leased property, including earlier years of use. This option cannot, however, be used for a lease that begins within the last 25 per cent of the original estimated economic life of the leased property.

Take for example a jet aircraft that has an estimated economic life of 25 years and is leased for five successive five-year leases. If the first four five-year leases were classified as operating leases, the last five-year lease cannot be classified as a capital lease because the lease would commence within the last 25 per cent of the estimated economic life of the property or the present value of the minimum lease payments as the beginning of the lease term, excluding executory costs and profits thereon to be paid by the lessor, is 90 per cent or more of the fair value of the property at the inception of the lease, less any investment tax credit retained and expected to be realized by the lessor. This criterion cannot be used for a lease that begins within the last 25 per cent of the original estimated economic life of the leased property.

Mr. Speaker, accounting treatment enables the lessor in a finance lease to claim the wear and tear allowances on the leased asset. The lease rental is also brought into the lessor's income statement. In the lessee's records, the leased asset is recorded in the balance sheet and lease rental is claimed as an operating expense. The lessee, however, is unable to claim wear and tear allowances in light of the provisions of the taxing legislation.

Under section 16(1) of the Income Tax (In Aid of Industry) Act:

“Where a person carrying on a trade incurs expenditure on the provision of machinery and plant for the purposes of trade, there shall be made to him for the year of income in the basis period for which the expenditure is incurred, an allowance equal to one-half of the expenditure.”

This provision has been interpreted as being applicable only to assets purchased directly, that is, acquired through generated funds or loan financing. By implication, if plant and equipment are acquired through leasing, the lessee will not be able to claim wear and tear or even initial allowances. This has been an impediment to the use of leasing to finance capital expenditure.

Mr. Speaker, it is proposed that the Income Tax (In Aid of Industry) Act be amended to allow businesses acquiring assets by way of finance leasing to obtain the initial allowance. The following benefits will be derived from the proposed amendment:

- It would encourage the renewal and expansion of plant and machinery by widening the range of choices available to finance the acquisition of new plant and machinery;

- Through plant expansion and renewal, companies can benefit from the efficiencies of updated technology;
- Companies which do not have the necessary collateral or credit line capacity to borrow can benefit from leasing, since leasing does not require the lessee to provide collateral;
- A taxation regime that facilitates capital formation is supportive of the Government's efforts to encourage business growth;
- The spin-off effects of the creation of employment and the growth of business are in keeping with the Income Tax (In Aid of Industry) Act;
- Technically speaking, leasing is not borrowing and may circumvent the restrictive loan covenants and capital investment constraints;
- A leasing facility preserves liquidity for other more appropriate uses and does not tie up valuable working capital or credit lines;
- A lease cannot be cancelled, unlike overdraft facilities which are repayable on demand and may be decreased during a credit squeeze.

The amendment to the Income Tax (In Aid of Industry) Act should take effect from January 1, 2000.

I will move on to Part IX of the Bill, which deals with amendments to the Securities Industry Act, 1995.

This Honourable House will note that since the Trinidad and Tobago Securities and Exchange Commission began operations in May 1997, the Commission has reviewed and registered several market actors, including brokers, dealers, underwriters, securities companies and investment advisers. Work continues on the supervision of the activities of market players with a view to maintaining proper standards of conduct and professionalism in the securities business.

The Commission has been concentrating much of its efforts on the operational aspects of its role. In this regard, the Commission has noted that the fee structure under the Securities Industry Act, 1995 and its by-laws need to be revised in order to facilitate its effective administration of the securities industry.

In its review of the fee structure, the Commission looked at fees charged by securities commissions in other jurisdictions, including Jamaica, British Columbia and the United States of America. Consideration was also given to the existing fee structure of the Trinidad and Tobago Stock Exchange, which is a self-regulatory organization supervised by the Commission. Additionally, reference was also made to the fees levied on insurance intermediaries under the Insurance Act.

The proposed fees are intended to provide for a more appropriate fee structure for the Commission and are designed to:

1. Increase the registration fees payable under Schedule I of the Act;
2. Increase the range of activities in respect of which registration fees are payable;
3. Increase the filing fees payable under Schedule 1 of the Act;
4. Increase the range of activities in respect of which filing fees are payable.

The Commission has complied with section 132 of the Act with respect to the publication of the proposed fees in the *Gazette* and the daily newspapers. The Commission also invited interested parties, including members of the brokerage community and the Trinidad and Tobago Stock Exchange, to make representations on the published proposals. As a result of the representations made, the Commission revised its original proposals and is satisfied that the fee structure being proposed would neither pose an undue burden on market actors and reporting issuers nor adversely affect the development of the capital market.

This House will note further that under the existing legislation, market actors once registered, are not required under the Act to renew such registration. The Commission has proposed that the Act be amended to provide for the annual registration of market actors, including brokers, investment advisers, dealers, traders, underwriters, securities companies and self-regulatory organizations.

In addition, the Commission also proposed that reporting issuers who are now required to file amended registration statements on an annual basis, should now be required to pay a fee for such filing. These measures are consistent with the practice in other countries and are expected to provide the Commission with a broader revenue base. These proposals will require an appropriate amendment to Part IV of the Act.

The proposals to amend the Securities Industry Act, 1995 should take effect from the date of the coming into operation of the Financial (Miscellaneous Provisions) Act, 2000.

Mr. Speaker, in conclusion I would point out that economic growth is a process of economic change. So, an appetite for change, or at least a willingness to live with it, is essential if a society or an economy is to enjoy a comfortable lifestyle. Growth requires investment. Growth also requires another kind of selflessness. A modernizing society has to move away from self-sufficiency in individual households, villages, towns, regions and states towards interaction at all those levels, through specialization, modernization and trade.

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One may ask, does rapid growth, once started, ever stop? Nuclear war, falling asteroids or man-made environmental catastrophes could all intervene. Uncertainty is an underlying and basic fundamental principle in nature. The frontier of technology has moved much closer to the frontier of science. There are now fewer wheelbarrows waiting to be invented. On the other hand, the progress of science and technology today seems especially fruitful, what with the Internet and the prospects for genetic engineering. All of us having to live with these virtiginous changes that are apace all around us every day, every moment.

The new millennium still promises some prospects for competition and economic growth and with it an improvement of the lives of all human beings on the planet. The laws governing the conduct of our social and economic lives tend to lag behind the reality of current technological and economic events.

In the Bill before this House, I have continued in my quest to clean up some of the niggling issues that are affecting the investors and thwarting the economic growth in this country and, in particular, in trying to assist and remedy those disadvantages that some poor people in this country have had and to which the Government has always been paying attention, seeking after their welfare.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Speaker: I recognize the hon. Member for Diego Martin East, but at this point, we will break for supper and return at 9.30 p.m.

I am sorry, the House is suspended for dinner as opposed to supper, which I am told comes just before midnight.

8.50 p.m: *Sitting suspended.*

9.35 p.m.: *Sitting resumed.*

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, for a Member that is wont to quote all sorts of convoluted extracts from obscure texts, I was quite numbed by the presentation of the Member for Tobago East. I was disappointed that he chose to read verbatim from his prepared text. One would think he understood very little of what he read; boring as it was. Really, it was quite unnecessary of him to go through that pedantic display of verbosity.

The fact of the matter is that there are certain issues in this legislation which the—I do not know if he is really aware of it. I will have to excuse him. I do not know who wrote that horrible text. I am sure it was not him. The fact of the matter

is that we see in this Financial (Miscellaneous Provisions Bill), a final admission by the Government, that the taxation policy of the PNM was correct and, certainly, in the clauses that deal with the deductions relating to income tax. I remember when this administration was in its infancy, they boasted that they were going to introduce revolutionary reforms to taxation in Trinidad and Tobago, and that they would not use fiscal or monetary policy as a stimulus to target any sector. They were going to remove all the deductions and eventually come down to the point where there was just one flat rate. I remember them carrying on about PNM's policy.

If one looks at the budget statements from 1996 to 1999, one sees a complete absence of logic and, particularly, the whole question of incentives for savings. You see, we made the point that when you target housing and pensions, and when you give concessions and deductions specific to housing and pensions and other forms of savings, you encourage, and it results in growth in national savings. That is why the PNM had a policy of encouraging home ownership through deductions for mortgage interest, and encouraging savings through investment in pension schemes and so on.

It is amazing that it has taken almost five years for this UNC to come right back to where the PNM was, and to establish various incentive regimes. I notice now another incentive programme that the PNM had in place; the whole question of tax deduction for tertiary education. You see, they are all fundamental pillars of our growth as a nation. These tax incentives were put in place by the PNM to encourage home ownership; to encourage savings; to encourage people furthering their education or sending their children for further education using taxation, tax deductions or tax concessions, as an instrument to encourage growth in that area. These were all put in place and nurtured by the PNM.

It is so ironic that in the year 2000, the fifth year of the UNC, they have to come quietly with a Bill like this, and concede that the incentive regimes that the PNM put in place were, in fact, appropriate and correct. Here we are now, right back to square one, where there will be a deduction of \$36,000 for someone and his spouse for mortgage interest. *[Interruption]* Yes, the two together are entitled. Where in the year of income commencing January 01, 1999—that is the tertiary education—*[Interruption]* No, no, both of them can claim \$18,000. Okay. I am subject to correction if it is not so. Where a person and his spouse occupy as residence, land and improvements owned by both spouses jointly, a deduction, under subsection (3), in respect of the residence, may be claimed by either one of them. *[Interruption]* Okay. Accept it. I take it back.

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The point is that the UNC has now accepted that you can have a deduction in respect of mortgage interest, separate and apart from a deduction in respect of pensions. You can now have a deduction for tertiary education. All policies of the People's National Movement. It has taken them five years to go right back to these tax incentive programmes that the PNM introduced. So that we, on this side, must support it. We just wish that they had done this in 1996 instead of the year 2000.

In terms of the amendment to the Corporation Tax Act, I think the Minister is blissfully unaware of the real purpose and intent of this amendment. Perhaps, the Member for St. Joseph may know. *[Interruption]* You may know. You see, there is a particular project involving the construction of stadia, where one financial institution had entered into an arrangement with the Government to finance the construction of these facilities. However, the Government or members of the Government were not happy with the methodology being applied by this particular financial institution. I think they wanted open transparent tendering. I think that is what that particular financial institution insisted upon. Of course, they ran headlong into grief—I would not call any names—with the present administration because the present administration did not want open selective tendering with pre-qualifications and so on.

Eventually, another financial institution had to come in, but of course in acquiring the debt there are expenses. So that this is really to clean that up and no amount of trying to cover it up to say it goes back to the year 1998, will convince me that this is not simply to allow one financial institution to take over from another financing programme, for those stadia. That is what this is all about. Nothing more, nothing less!

Mr. Speaker, it also allows the Government to borrow locally. As the Minister stated, there was some confusion and when one looks at the official debt statistics, one sees that the domestic debt has gone from \$6.5 billion in 1995, to \$8.2 billion in 1999. So that the domestic debt has increased by \$1.7 billion in the last four and a half years. This does not take into account \$1 billion for the airport; it does not take into account \$600 million for the South Water Project; and the next \$400 million for the North Water Project, or whatever it is, and a myriad of other debt arrangements which have not yet come on to the books. So that in reality, what the Government has done, over the last four and a half years, is increase the public debt by some \$3 billion to \$4 billion on the domestic market.

9.45 p.m.

The reason is, Mr. Speaker, that when projects are financed on the local market one can manipulate them. You see, when one has to go to the Inter-American Development Bank, or the World Bank and they put their conditionalities on and they put their procedures in place and people have to prequalify on merit and the lowest tenderer must get the contract unless there is something grossly wrong with the whole process, there is very little scope for manipulation and corruption. However, when money is raised locally, one can then take the money and start to hand it out using all sorts of strange—*[Interruption]* No, we never did anything like that.

I have looked at what this Government has done, Mr. Speaker, over the last four and a half years and they are shifting emphasis from borrowing externally to borrowing on the local market, the reason being they can manipulate the process and it facilitates corruption. That is what it is all about because the arrangements that they are entering into now, they are just taking the money from the local financial institutions, and then engaging the contractors and consultants themselves, manipulating the whole process. That is what is going on in all these ministries, Mr. Speaker. They know what I am talking about. They are all bawling “Not true, not true”, but it is a fact. That is what this is all about.

This, Mr. Speaker, is going to open the door to allow the Government to borrow billions of dollars locally and then use that money for their own purposes, violate tender procedures, bypass the Central Tenders Board, award contracts to the highest bidder instead of the lowest bidder and so forth. So I am certain that the surrogate Minister was not aware of what he was asked to pilot in this House tonight. I mean, it sounds good on paper. It makes a lot of sense when there are these tax exempt instruments where there is not much difference between the rate at which one borrows money and the rate at which one lends money. So there is not much opportunity for a financial institution to make money if it is borrowing at seven per cent and lending at eight per cent or borrowing at eight and lending at nine. The spread is so small that there is not much opportunity for these financial institutions to make money on tax exempt instruments. *[Interruption]* Whatever.

So that, a number of these banks have been asking for this and there is nothing wrong with it. It is a fact that the spread is small and therefore they do not make much money on these tax-exempt arrangements. However, the real motive in all of this is to start a borrowing spree on the local market to facilitate the corruption. That is what it is all about. It sounds nice and pretty, the nice pedantic, convoluted, tendentious, boring text that the Minister read in his monologue for us, designed to put one to sleep so that we would not understand what is happening.

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This is all about facilitating corruption, Mr. Speaker. So that we shall see what happens. We shall see what happens to the public debt between May 1 and November or whenever the election is called. We shall see how many billions will be borrowed on the local market and how many billions will be spent over the next six months or so and how many tender rules would be violated and how many contracts will be awarded to cronies using this device, you know, facilitating borrowing on the local market.

To bring the point raised by my colleague, if one is allowing companies to write off expenses in the acquisition of debt securities, what about individuals? I would ask the Minister, underneath all of what I have said, why does this amendment not also apply to individuals who might purchase a bond from the Home Mortgage Bank floated by the Home Mortgage Bank? I could see the Member for St. Joseph understands what I am talking about. An individual may wish to do it as a form of long-term savings, and why should they not? They may have to take a commission, they may have to pay fees in acquiring a bond floated by—a housing bond, for example, a tax-exempt bond. So why should they not also? That is a simple amendment. Just add the word, “individual”, as an amendment next to the word, “company” in this legislation.

In terms of the leasing of machinery and plant, I think this is unnecessarily cumbersome. It does not appear to make any sense at all. When one looks at the amendment 16A (3)(c), it refers to a lease term that is “substantially equal to the estimated economic life of the lease machinery or plant including earlier years of use”. This seems absolutely illogical to me. If the earlier years of use have to be included in estimating the economic life, then how does one arrive at this 75 per cent and 25 per cent thing. When one goes to the definition one becomes even more confused where the interpretation says:

“‘estimated economic life’ means the estimated remaining useful life of the property...”

Whereas in 16A (3) (c) it talks about estimated economic life “including earlier years of use”, I do not know if it makes sense. Perhaps the Minister can explain that to me, but it does not appear to make sense to me.

The other issue I take with this is it does not appear to apply to real property, buildings; it appears to apply only to machinery. Why? If, in fact, the policy—*[Interruption]* Yes, but can you write-off all expenditure in leasing a building? *[Interruption]* I am not arguing with you, Mr. Speaker, through you, but all I say is that if, at present, these reliefs are not available for the lease of buildings, I think they should be, because leasing of buildings is as important as the leasing of machinery and plant, equally important, and sometimes often involves larger sums of money.

So that, I had promised the other side that I would be brief and I have no intention of talking for 90 minutes tonight. I would save that for Thursday and Friday. With these few points, Mr. Speaker, I would ask the Minister to look at the issues that I have raised, the inclusion of “individual” together with “company” in the section on corporation tax, the whole question of the term of the lease under the leasing of machinery and also the inclusion of real property in the tax concessions in Part VIII. I thank you, Mr. Speaker. [*Desk thumping*]

Mr. Kenneth Valley (*Diego Martin Central*): Let me make a very small contribution, Mr. Speaker. Let me say at the outset that I support the intent of this legislation. I think most of it is simply to give some direction to the Inland Revenue Department because some of the matters here should be so already as a fact, but I know that the Inland Revenue Department has taken a position in the past that if there is no tax on the income, if an income stream is tax exempt well, then, there can be no expense claimed with respect to that income stream. I think this legislation is putting clarity that the fact that an income stream is tax exempt does not mean that the expenses ought not to be allowed as a deduction.

So, Mr. Speaker, yes, this is modern legislation with which we have little difficulty other than one or two little things. My colleague made the point a while ago, with respect to the corporation tax, and I too think we need to look at that. The Minister, in his presentation, stated from his prepared text that the intent here was to allow for a high degree of modernization allowing for bond stripping so that an issuer, or perhaps I should say a purchaser of a bond, can strip that bond and sell interest coupons and all of these things. Looking at the legislation, I am not sure that, given the wording, that Inland Revenue would allow for that type of interest stripping or bond stripping.

It talks here about the company acquiring from the holder of bonds, notes, debentures or other similar debt securities the right to receive income derived from any of those debt securities. I do not know whether Inland Revenue would agree that interest coupons fall within the definition here. The lawyers have this concept, *ejusdem generis*, you know, which really limits rather than expands the definition. I think we need to look at that. If, in fact, it would be allowed, fine. If it would not, then I think we need to look at the wording of the clause.

The other thing, of course, is, I think we are coming to the point, as I mentioned to the Minister both while he was speaking and outside, where we have to take a decision how we would treat zero coupons. A zero coupon, Mr. Speaker, is simply when one buys a bond today, it carries no interest, it matures in 2005 for

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an accumulated amount. In other words, rather than paying interest annually the interest is allowed to accumulate. Or, you can look at it another way. A bond is issued and the same interest stripping that we are talking about, the interest that is to be paid in 2005 you buy it today, so obviously you would buy it at a discount, okay?

Let us assume the interest amount you are supposed to collect in 2005 is \$100,000. Given the rate of interest you may pay, I do not know, \$20,000 or \$25,000 for it today but you are getting \$100,000. That imputed interest between now and 2005, is that going to be taxed? That is what is happening on the market right now. The market has moved, that is a zero coupon, and Inland Revenue has to take a decision—[*Interruption*] Well, the question is, are you going to tax it on an accrual basis or are you going to tax it when it matures? Or are you going to tax it at all? [*Interruption*]

No, no, no, no. The Canadians would not tell you that. The Canadians now are taxing the build-up in insurance policies. [*Interruption*] But you say Government. All I say is that you have to determine, one, whether it is taxable income and, two, how you are going to tax it. Are you going to tax the build up or are you going to wait until it matures and tax the lump sum? So I think you have to take a decision with respect to that. Certainly, Mr. Speaker, I think that if we find it worthwhile to provide this benefit to companies, the same ought to obtain for the individual because yes, an individual may retire, may get lump sum money and may want to buy some interest coupons and he would have expenses also.

10.00 p.m.

Mr. Speaker, the individual would have to pay his broker and so forth, so that the same thing that applies to the company ought to apply to the individual. The individual may buy tax-free bonds from the Home Mortgage Bank but he has to pay commissions. The individual may borrow money to buy the bonds okay, and he ought to get the same expense deduction that the Government is talking about for the corporation. I think the Government needs to look at that.

What really appears to me to be as a computer error—when you are dealing with computers in the modern age, you may make a change but fail to delete a paragraph—I do not know whether Members would want to look at page 4 of the Bill at subsection (9) and subsection (10) on page 5. Both clauses say the same thing. The only difference is that subclause (10) is more inclusive. If Members want to look at it on page 4 of the Bill, the proposed subsection (9) says:

“Where in a year of income commencing January 1, 1999, a person incurs expenditure on behalf of himself or his child in respect of tertiary education at an institution approved by the Ministry of Education, a deduction of an amount not exceeding eighteen thousand dollars...”

That is what subclause (9) says.

The proposed Subsection 10 says:

“Where in a year of income commencing January 1, 1999, a person incurs expenditure on behalf of himself, his spouse or his child in respect of tertiary education at an institution approved by the Ministry of Education, a deduction of an amount not exceeding eighteen thousand dollars may be claimed by either spouse at their option in ascertaining their chargeable income...”

Mr. Speaker, now, obviously subsection (10) is wider than subsection (9). I am sure the Government does not want to give a deduction under subsection (9) and another one under subsection (10). I do not know why we need subclause (9) when subclause 10 is there. I think the Government would want to look at that. We tried behind the Speaker’s chair but without much luck. I think the Government may need to look at that again.

The other issue, I am not sure, I have tried to give some consideration to this move that we are making with respect to payment of premiums in both foreign dollars which is already there, but the payment of benefit in the foreign currency. While it might be in keeping on one hand, it might be in keeping with the whole concept of setting up Trinidad and Tobago as a financial centre, I think one has to be careful. The legislation talks about premiums being paid either in TT currency and/or US dollar currency it seems to imply, but then it talks about the benefit being payable in the currency in which the premiums were paid. What happens in a situation where part premiums were paid in US dollars and part in TT dollars? And especially what we are talking about is savings for retirement in the case of the approved pension plan or the approved deferred compensation plan and so forth.

Mr. Speaker, the Act at present states that one gets a deduction only if the benefit is payable in TT currency. The whole concept of retirement savings and so forth is supposed to be for Trinidadians and Tobagonians. Now, if the Government is talking about giving this benefit, even though it is in US dollars, the Government is really giving a tax deduction and going into virgin territory. I assume that most of this would apply to foreigners and—the US dollar currency policies and so forth—they would normally have to pay tax. I mean, the whole concept of the approved deferred annuity and approved profit sharing plans and so forth was supposed to be for the local, that is why we get a tax savings. I am not sure that providing that deduction—even when the policy premiums are paid in

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US dollars—is something we want to do at this time. I do not know. I am not sure that is the way to go. But I could be convinced because really, on the other hand, the Government wants to make here a financial centre, and to the extent that a foreigner who is located here may want to have his savings in Trinidad, that is a benefit. All I am saying is that I think the Government needs to look at it again.

Mr. Speaker, those are the issues I saw in this legislation. There is one other matter with respect to estate duty. Just a small point, I think we are penalizing persons who went along and paid their estate duties. Something has to be wrong with that. I think we are sending the wrong message. What the legislation says is that somewhere in 1981, we stopped estate and succession duties. The situation is that—Inland Revenue again—up to now persons who died before 1981 are still having their estates probated and so forth, have to pay taxes. Those who have paid there is no refund, but as of now, anybody who has not paid, in other words, the recalcitrants as it were, they are getting off scotch free? Something has to be wrong with that.

Again, it is a difficult one because administrative convenience makes for a cut now, but what happens to all the persons who have paid for example, last year or the year before? I mean, should the Government not at least, go back some little time and say, “Well, okay, fine you will get a refund—I do not know—for 1995 or 1996?” But cutting off as of now, the Government is providing a benefit for those persons who were tardy in their payments; those persons who were law abiding and made their payments and so forth are in a sense being penalized. But then the *Bible* says—I think it was Jesus who gave the parable, where the employee who came at five o’clock the evening got the same payment as the one who started working from nine o’clock in the morning. I do not know whether the Government is following that parable. All I am saying is those are some issues that the Government may want to look at.

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

The Minister of Tobago Affairs and Minister in the Ministry of Finance (Dr. The Hon. Morgan Job): Mr. Speaker, the contributions from the other side, both Members said that they agreed with the provisions of the Bill. I think it is important that I put on the record that the Member for Diego Martin East was at his mischievous best again, when he was trying to suggest that this is just a bogus exercise designed to benefit one insurance company or two and, in particular, when the Member went on to say that the PNM policy has now been vindicated; and the PNM policy was to target particular constituencies and businesses with

these provisions. I am always confused when I hear these people talk about PNM policy. Which PNM policy; which regime; which five-year; which administration? There have been so many flip-flops and changes since 1956 one does not know what they are talking about.

10.10 p.m.

In particular, Mr. Speaker, we have to understand that one of the things that this Government, starting from the years of the National Alliance for Reconstruction—[*Interruption*—]—had to do to benefit the citizens of the country was to abandon PNM policy in terms of subsidies, its fiscal and monetary policies. It had to abandon it in order to put the economy on the right road. So when they come here talking about PNM policy, you do not know what they really mean.

I did say in my presentation that we live in a technologically changing world—and I mean changing rapidly. Trinidad and Tobago has to modernize its tax laws, especially where they have to do with capital market issues, in order to be part of that global economy that is emerging; we cannot avoid it. Whatever you might think, Mr. Speaker, there are citizens in this country who are, in fact, going to participate in that world market, anyway. So when the speakers over there are talking about trying to segregate the kinds of benefits and whether you pay benefits in US or TT dollars, I am suggesting to the Members on the other side that they had better get hip to it and understand that as the day goes by, there are more and more Trinidad and Tobago citizens, because of the way the economy of Trinidad and Tobago is going, we are buying US dollar assets.

Just earlier on in the afternoon I heard the Member for Diego Martin West talking about the vast market for cars and that the roads are now clogged up. All those people who are buying cars are manifestation of the evidence that the economy is booming. The economy is buoyant; there are people with plenty money and they are not only buying cars, but also stocks, bonds and securities and they are buying them in US dollars too. So we have to cater for all that.

The point that the Member made about zero rated bonds and all like that, points my mind to another fact that needs to be attended to, which is that the present structure of the insurance industry, banking industry and the securities market in the world changes from day to day. Nobody knows what new products or kinds of securities that are going to be on the market; nobody knows what is going to be there six months from now. Every time you take up the *Wall Street Journal* and read it, there is some new kind of variation on the theme—derivatives, convertibles and all kinds of things, that if you take any banker who has been there for 40 years, he does not understand what is going on; he has to go back to school. Mr. Speaker, we have to understand all of that.

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I would say that there is nothing much to argue with, because they all agreed that this was a fantastic piece of legislation and very timely. So all we should do now is go to the committee stage. Mr. Speaker, I beg to move.

Mr. Bereaux: You yourself do not understand.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: I take it that Members have a copy of a list of amendments circulated by the Minister of Finance?

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Valley: Mr. Chairman, concerning clause 5(d)(ii) at page 4, I wanted to find out whether there are two deductions, whether there is one under section 10(9) and another under section 10(10), or whether it is an error. Subclause (9) seems to be—

Mr. Maharaj: Mr. Chairman, the hon. Member for Diego Martin Central raised this matter with me. We are talking in terms of clause 5(d)(ii); is that not so?

Mr. Valley: Yes.

Mr. Maharaj: That has to do with respect to where a person incurs expenditure on behalf of himself or a child and subsection (10) deals with a person on behalf of himself, his spouse or his child. The explanation I have got was that it was recognized that in subsection (9) it is not as extensive as in subsection (10), but the income tax people wanted them separately. It is not intended to make a claim twice. Subsection (10) was intended to deal with a family situation and subsection (9), not necessarily a family situation. I explained that to him.

Mr. Valley: I know that you told me about it. Mr. Chairman, if you look at subsection (10), let us talk about the single parent who has incurred expenditure to send either himself or his child to university. I do not know why that cannot be dealt with at subsection (10). He can claim it under subsection (10).

Mr. Maharaj: If you notice the drafting in respect of subsection (10):

“...save that where a claim for a deduction is also made under subsection (3)(a), the aggregate deduction under this subsection and subsection (3)(a) shall be limited to eighteen thousand dollars for each spouse.”

So it would probably have been very difficult to—

Mr. Valley: I am sorry. Where are you reading from?

Mr. Maharaj: Under subsection (10) on page 5. If you look at almost 5 lines from the end, it states:

“...save that where a claim for a deduction is also made under subsection (3)(a), the aggregate deduction under this subsection and subsection (3)(a) shall be limited to eighteen thousand dollars for each spouse.”

I am looking at it. It might be very difficult to draft it and put it to convey all the meaning in one section.

Mr. Valley: I do not think that you need to even redraft it. If the person is a single parent, if a spouse is not involved, he claims it, because as it stands right now it seems that one can claim under subsection (9) as well as under subsection (10).

Mr. Maharaj: I am assured that that is not so.

Mr. Valley: But there is nothing in the legislation, because remember there is a tax appeal. I must tell you that I just won at the Court of Appeal a nice tax case. Under subsection (9) if I am paying tuition fees for myself and I am also paying tuition fees for my son, or I make a claim under subsection (9) for myself or my son, and make another claim under subsection (10), what is stopping me from doing that in this legislation?

Mr. Maharaj: I am disadvantaged because I do not have the technical advisors here. [*Interruption*] The officer here is showing me the specific instructions, how it should be. I do not know the technical reason, but the income tax people wanted it this way. I do not know whether it would satisfy the hon. Member that I—it still has to go in another place so I do not know whether it could be put on the record that I will undertake to do it and if it becomes necessary to amend it in the other place, I am sure the Opposition there—

Mr. Valley: I think you need to look at it.

Mr. Maharaj: He has showed me and it is quite clear that they wanted it this way. I am disadvantaged, really.

Mr. Valley: I hear you. I am always fearful when people want things a particular way and it does not make sense; so I think that you need to look at it.

Mr. Imbert: Mr. Chairman, different words have been used in the drafting of (d)(i)(4) which deals with the deduction for land residence and so forth. So different words are being used in (d)(ii)(9) and (10). Firstly, I find (d)(i) very confusing, because it talks about:

“...a deduction under subsection 3(a) in respect of the residence may be claimed by either one of them, at their option, and shall be allowed accordingly save that the deduction is limited to eighteen thousand dollars in respect of each spouse.”

I would think it is in respect of the spouse making the claim; is it not? Why each spouse? [*Crosstalk*]

Mr. Maharaj: Mr. Chairman, I myself am a bit concerned about subsections (9) and (10). I wonder if we can do the other clauses and we will come back on another day with this.

Mr. Imbert: The point I had with subsection(10), just for the record, is that it appears to mean that you could claim \$36,000, because it says that it may be claimed by either spouse and then it is limited to \$18,000 for each spouse. That seems to be \$18,000 by two; so if either could claim it, then you have \$18,000 for each, that is \$36,000.

Mr. Maharaj: It is a bit loose.

Mr. Imbert: Is that the intent? I thought this thing with the residence and the property was both of them; each at \$18,000 making \$36,000. It is not clear at all.

Mr. Maharaj: I am a bit unhappy with this.

Mr. Imbert: So you will come back to this at some other point?

Mr. Maharaj: I think what we will do is probably adjourn this clause.

Mr. Imbert: You need to clean up this language.

Mr. Assam: You have at the beginning here a deduction of an amount not exceeding \$18,000 being claimed by either spouse. There seems to be a conflict here.

Mr. Imbert: And the other one is similar.

Mr. Maharaj: I must confess that I am tempted to consent to the amendment for each spouse, but I do not know—

Mr. Imbert: What is the policy?

Mr. Maharaj: It seems to me that without committing me to the future, on the face of it, it should be “either”.

Mr. Imbert: It should be both. [*Crosstalk*] Does “either” mean both or one?

Mr. Valley: “Either” means one or the other.

Mr. Maharaj: I think the lateness of the night is affecting him. [*Laughter*] So we can come back to clause 5. If this is the only other clause and they go ahead, we will adjourn the committee stage and just come back to clause 5. But we have to amend subsection (9). I do not know if we can go through the other clauses so that when we come back—

Mr. Chairman: So that, by agreement, clause 5 is deferred and will be revisited.

Clause 5 deferred.

10.25 p.m.

Clause 6 ordered to stand part of the Bill.

Clause 7

Question proposed, That clause 7 stand part of the Bill.

Mr. Valley: Mr. Chairman, with respect to clause 7, I do not have a draft, but again I will just ask the Minister that the benefit provided to companies under clause 7 should also be provided to the individual taxpayer.

Mr. Imbert: Mr. Chairman, I recommend that we delete the word “person”.

Mr. Valley: No, it is under the Corporation Tax Act, so it would not make a difference.

Mr. Imbert: So a company is a person?

Mr. Valley: But this is under the Corporation Tax Act. We will have to make the amendment under Chap. 75:01.

Mr. Imbert: Does a person include a company?

Mr. Maharaj: A company is a legal person but I do not know what is stated in the Act.

Mr. Valley: What I am saying is that we will have to make that amendment under Chap. 75:01. This is under the Corporation Tax Act, Chap. 75:02. The Income Tax Act is Chap. 75:01. If you want to capture the individual, you have to make it under the income tax rather than the corporation tax.

Mr. Imbert: Okay.

Mr. Assam: The Income Tax is Chap. 75:01 and the Corporation Tax is Chap. 75:02. There is a difference.

Mr. Maharaj: There is a difference. Do you want us to look at clause 7 then?

Mr. Valley: Yes I have a similar amendment. Under clause 9 I do not know, I really—

Clause 7 deferred.

Clause 8 ordered to stand part of the Bill.

Clause 9.

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

Mr. Chairman: Are you also suggesting that clause 9 be deferred?

Mr. Maharaj: Mr. Chairman, I beg to move that clause 9 be amended as follows:

“Delete the word ‘remitted’ and substitute the word ‘waived’

Although remitted can mean waived it can have double meaning.

Question put and agreed to.

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

Clauses 10 to 12 ordered to stand part of the Bill.

Clause 13.

Question proposed, That clause 13 stand part of the Bill.

Mr. Imbert: Mr. Chairman, with respect to clause 13 there seems, to me, to be some confusion in the meaning of “estimated economic life” as detailed in the interpretation section and what is contained at the bottom of page 10 regarding the lease term. Under the interpretation it is stated that:

“‘estimated economic life’ means the... remaining useful life”

but under clause 16A.(3)(c):

“the lease term...is substantially...equal to the estimated economic life...including earlier years of use”.

How could you have the estimated economic life is the remaining but another part talks about earlier years of use? I just find it confusing. It does not make sense.

Mr. Maharaj: We will defer clause 13.

Mr. Imbert: Also, the question of real property. See if real property should be included in clause 13 as well.

Clause 13 deferred.

Clauses 14 to 17 ordered to stand part of the Bill.

Mr. Chairman: We have now deferred clauses 5, 7 and 13.

Question put and agreed.

Committee stage, by leave, deferred.

House resumed.

HUMAN TISSUE TRANSPLANT (NO. 2) BILL

Order for second reading read.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Speaker, I beg to move,

That a Bill to make provision for the removal of human tissue for transplantation and blood for transfusion and for matters connected therewith be now read a second time.

Mr. Speaker, this Bill, the Human Tissue Transplant Bill, as it is referred to, was presented in the other place in March 1999. During the second reading of the Bill, it was referred to a Joint Select Committee of both Houses of Parliament for further consideration. The committee held seven meetings and considered the Bill in detail. As part of its deliberations, the committee invited public comments via announcements in the daily newspapers and, in addition, the Bill was sent to 20 organizations, seeking their comments. Comments were received from eight organizations.

The committee considered the policy enunciated in the Bill, went through the Bill clause by clause and was supported in its deliberations by technical officers from the Ministry of Health as well as staff from the office of the Chief Parliamentary Counsel.

After careful consideration of the Bill and taking into account the comments made by the various organizations, the committee made its recommendations which resulted in the Bill being redrafted incorporating the recommendations of

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the committee. Mr. Speaker, the Bill before us, therefore, the Human Tissue Transplant Bill (No.2), is a result of that exercise and it has already been passed in the other place.

Mr. Speaker, the origin of this Bill date as far back as 1986 when the Cabinet directed the then Attorney General to draft legislation with regards to the use of cadavers. Over the years, various drafts of that legislation changed focus and we now have a Bill which is in fact quite different in intent and content.

Mr. Speaker, this Bill deals with the harvesting and transplantation of organs from both live donors and cadavers. It outlines the conditions whereby tissue may be harvested. The Bill deals with the harvesting of regenerative and non-regenerative tissues from adults, then special conditions which will apply in the case of harvesting tissues from minors.

The Bill then deals with the donation of blood from both adults and minors. The Bill seeks to provide safeguards to discourage the exploitation of persons who are vulnerable.

Transplantation of regenerative and non-regenerative tissues from living persons and cadavers has been a well-established technique in the medical arsenal worldwide for a long time and has saved lives, or improved the quality of life, for many people.

The Bill provides that the removal and transplantation of human tissue shall be carried out by physicians and only in hospitals which have been duly authorized by the Minister responsible for health.

Clause 2 of the Bill deals with the interpretation section and clause 3 provides for the appointment of designated officers who shall be medical practitioners who have been in practice for not less than three years. Each hospital authorized to perform this procedure would be staffed by at least one designated officer. These officers will be responsible for handling their administrative aspects of each transplant. To prevent any possible conflict of interest, clause 3(4) prohibits the participation of the designated officers in any of the medical procedures involved in the removal of the tissue from the body of a living person.

10.35 p.m

Part III of the Bill provides for the donation of tissue of an adult by an adult.

Clauses 4 and 5 deal with the donation of regenerative tissues and sets out the criteria by which these tissues may be donated. The criteria include that the donor shall not be a minor, should be of sound mind and must have given informed consent. It also makes provision for the consent to be revoked any time before the actual removal of the tissue.

After consent is given, the designated officer must then ensure that all requirements are complied with. As a second safeguard, he must explain the implications of the removal of the tissue and ensure that the donor understands.

Clause 6 of the Bill treats with the donation of non-regenerative tissue. As I indicated, there are tissues that cannot be replaced in the donor's body by natural processes, for example, the kidney. The conditions imposed for the removal of regenerative tissue are also imposed with respect to non-regenerative tissue. The conditions imposed by the medical practitioners and designated officers are there to ensure the protection of the donor's safety, dignity and rights, and here an additional safeguard is inserted that in the case of non-regenerative tissue, at least 24 hours must elapse between the consent and the actual removal in case there is a change of mind.

Clauses 8 to 12 provide the legal framework for the donation of tissues by minors. The Bill defines a "minor" as:

"a person under eighteen years of age, but does not include a person who is married or a parent;"

Clause 8 prohibits the removal of non-regenerative tissue from the body of a living minor for any purpose whatsoever. This is an absolute prohibition and, as such, under no circumstances can be done. However, clause 9 allows for a limited way, the removal of regenerative tissue from minors for the specific purpose of transplantation to the body of a natural brother, sister, or parent of the minor provided that the parent or guardian has obtained objective advice from a medical practitioner regarding the nature and effect of the removal and the nature of the transplant.

Further, the minor must be of sound mind and must have agreed to the transplantation by making an informed decision. To this end, clause 10 provides that the consent of the parent or guardian, the agreement of the minor and the certification of the designated officer are necessary for a medical practitioner to remove regenerative tissue from the body of a minor who understands the nature of the procedure providing that consent has not been withdrawn.

Clause 11 treats with the situation where children are too young to understand the consequences of the removal of regenerative tissues from their bodies. It restricts the procedure to cases where the tissue is necessary to save the life of a brother, a sister, or a parent of the minor. Once again, the informed consent of the parent or guardian and the certification of a designated officer are necessary before transplantation can take place.

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Mr. Speaker, it is to be noted that in the circumstances, a medical officer other than the one who is to perform the procedure, must certify that the sibling or parent of the minor would die in the absence of the transplant. The conditions under which regenerative tissue, including bone marrow, can be removed from minors are very stringent. This has been deliberately done to prevent abuse of children by either parent or guardian and if we have erred here, we prefer to err on the side of caution.

Part V stipulates the conditions and procedures which must be followed before tissues can be removed from deceased persons. Because of the practical difficulties in obtaining tissues from live donors, medical attention has been directed to the possibility of obtaining such from cadavers. The practical advantages are obvious. The donor, once pronounced dead, is not exposed to any hazards which face live donors. Moreover, in some cases such as heart and other organs, it is not possible to take these from live donors.

Mr. Speaker, transplantation is now an accepted treatment for patients with end-stage organ failure like renal failure, kidney failure, where treatment with drugs or restorative surgery are not possible. Some major breakthroughs in tissue typing and amino-suppressing drugs have made it possible to transplant approximately 25 different organs and tissues including bone, cartilage, bone marrow, skin, cornea, heart, kidney, lung and pancreas, among others. Over 1,000,000 persons worldwide have benefited from successful organ transplants. However, as we are all aware, the need for these tissues far exceeds supply.

The potential of supply, therefore from cadavers is much greater than that of live donors. However, as far as the removal of tissue from a dead person is concerned, the Bill requires the authorization of a designated officer and stipulates the circumstances under which he can make such authorization.

Clauses 16 and 17 allow such harvesting of tissue for the purpose of transplantation and other therapeutic, medical and scientific purposes. Pursuant to clause 17, the designated officer is mandated to make reasonable enquiries to determine whether the deceased person had during his lifetime consented to or expressed a wish for the removal of tissue from his body after death. However, the designated officer can authorize the harvesting of tissues from the body of a deceased if the relatives of the deceased agree, provided that the designated officer has no reason to believe that the deceased had expressed an objection to it during his lifetime.

Clause 17(2) provides further that the authorization of a designated officer should be restricted by the expressed terms of the wishes or consent of the deceased person or consent of his nearest relative as the case may be, both as to the tissue which may be removed and the purpose or use of such tissue.

Clause 18 specifically prohibits the harvesting of tissues before death has occurred under this particular part.

Mr. Speaker, in Chamber's 20th Century Dictionary, death is defined as the state of being dead or cessation of life. Steadman's Medical Dictionary says in multi-cellular organisms, death is a gradual process at the cellular level with tissues varying in the ability to withstand deprivation of oxygen. There is, therefore, conceptual conflict between the layman and the doctor, the latter being forced to accept an academic formula such as death being a permanent state of tissue anoxia.

Tissue anoxia arises naturally in two ways either respiration ceases in which case there is failure to breathe oxygen, or the heart fails when oxygen is no longer distributed to the tissues. In either case, the diagnostic problem lies in the definition of permanence.

Accordingly, clause 19(1) provides that a person is considered dead when there has occurred—

- “(a) irreversible cessation of all functions of the brain stem of that person; or
- (b) irreversible cessation of circulation of blood in the body of that person.

Clause 19(3) provides:

“The Minister shall, by regulations, prescribe the criteria for determining the irreversible cessation of all functions of the brain stem of the person referred to in subsection (1).”

Mr. Speaker, brain stem death is defined as the irreversible cessation of all functions of the brain stem. It is diagnosed on the demonstration of the absence of brain stem reflexes if a patient with a known case of severe or irreversible brain damage—diagnosis is not merely normally considered until at least six hours after the onset of coma and if cardiac arrest was the cause of coma, until 24 hours after circulation has ceased.

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Through electrophysiological, radiological or other test which may be used, it is common practice that this diagnosis is made by simple, reliable bedside demonstration of the absence of brain stem reflexes.

Subclause (2) seeks to prevent conflict of interest by prohibiting medical practitioners who have a familial or professional relationship with the proposed recipient from taking any part in the determination of death of the donor of the tissue. Further, it also prohibits the medical practitioners who have determined the fact of death from participating in the transplantation of the tissue.

A policy document entitled *Protocol for the Diagnosis of Brain Stem Death* has been prepared by the Ministry of Health and is to be followed by the entire health sector. Moreover, the ministry is currently engaged in the preparation of regulations governing this area and others incidental to this Bill.

Clause 20 treats with the circumstances where there is reason to believe that based on the manner of death, the coroner has jurisdiction to hold a preliminary inquiry or an inquest into the manner and cause of death of the person under provision of the Coroner's Act. This clause mandates the designated officer to ensure that no tissue is removed from the deceased person, unless the coroner has stated that he has no objection to the removal.

Part IV of the Bill deals with the donation of blood from adults and minors. This is made simpler than the donation of tissues.

Part VI of the Bill explicitly prohibits the trading in blood and human tissues including the advertising of such transactions making such acts a criminal offence.

Part VII deals with various miscellaneous issues including making the removal of tissues contrary to provisions of the Act an offence. It also deals with the issues of confidentiality and lists the conditions under which information may be released.

Finally, clause 28 gives the Minister the power to make regulation for giving effect to the Act and listed in particular, five specified areas.

Mr. Speaker, I do not think that there is any disagreement as to the necessity and, in fact, the urgency of this piece of legislation. As I mentioned, it can facilitate better health for many persons and it can mean the difference between life and death for others. For many people in our society there is a high incidence of diabetes; hypertension, that is high blood pressure and a high incidence of chronic renal failure for which many persons require kidney transplant.

We have attempted to consult as widely as possible on the provisions of this Bill and I can say that many organizations, including the medical fraternity, are more than eager to see this piece of legislation enacted. However, we would like to pass good legislation and I look forward to the contributions from Members on the other side.

Mr. Speaker, I beg to move.

Question proposed.

Mrs. Camille Robinson-Regis (*Arouca South*): Mr. Speaker, I would just like to make some comments on this legislation and ask some questions about it.

The Minister has indicated to us that this is legislation that is needed fairly urgently and that the medical fraternity is eagerly anticipating the passage of this legislation. I find it a little strange that it was brought to the other place since March and had to go through a joint select committee and it was not until November last year that it resurfaced in the other place and in May of this year we are seeing it in this House and I wonder the true urgency of this legislation.

In circumstances particularly where the Minister has not been able to indicate to us what is the empirical evidence that there are numbers of people who are in need of tissue transplants, it would have been of some assistance to us if the Minister had indicated to us in terms of numbers, what the health sector is facing in terms of persons who are truly in need of transplants.

10.50 p.m.

Mr. Speaker, the Minister has said that one of the main areas where transplants are needed is in terms of kidney failure. We are aware that there has been a fairly high incidence of kidney failure based, as the Minister rightly indicated, on the incidence of diabetes, hypertension, and the resultant renal failure. My information is, however, that for this legislation, particularly, in terms of kidney transplants to be successful, there must be a team of doctors that will work on transplanting. Indeed, the situation is, as I understand it, that there is no competent nephrologist on the team of doctors that is needed to do kidney transplants in Trinidad and Tobago. The question that we would like answered is: even when this legislation is passed, when, in fact, will these transplants be able to take place if the team of doctors and other medical practitioners that are needed do not exist now in the health sector?

Perhaps the Minister should tell us something about preventative medicine, about primary medical care and a system being developed to prevent persons in Trinidad and Tobago reaching to the point where they have hypertension and renal failure. I am not saying that in circumstances that exist we do not have to bring legislation that deals with it, but when we bring this legislation we also have to ensure that the team of doctors and medical practitioners who can make these transplants a reality also exist in the system.

One of the other questions that we on this side would like answered is: who decides how these transplants will be allocated? I know that clause 28 indicates that there will be the making of regulations to deal with the entire system of transplants, but what these regulations will deal with is the screening and testing of tissue and blood before and after removal from a body; the transportation storage and handling of tissue and blood; the conditions subject to which transplantation of tissue shall be carried out and the criteria for determining the irreversible cessation of all functions of the brainstem of a person. The question that we on this side would like answered is: how is there going to be a prioritization of the persons who need transplants?

Dr. Rafeeq: I thank the hon. Member for giving way but I think she is really reading from an old Bill. There had been amendments in the Senate, a subsection (e) was added to clause 28: Allocation of tissues.

Mrs. C. Robinson-Regis: I have not received that. Thank you very much, hon. Minister. Mr. Speaker, what we would like to know is if there is any indication that the Minister could give us an assurance that the allocation will be done fairly and will not mean that somebody who may be indigent and needs the same transplant, as someone who is very well off, will be taken into consideration as fairly as the person who is very well off. It is a pity that given the length of time that this legislation has taken to get to this House and to this stage that there were not even draft regulations which could have assisted us in being able to see how this legislation will, in fact, be administered.

We, on this side, would also like to know, whether consideration has been given to determining that the medical practitioner who is deemed the designated officer in the hospital; whether consideration has been given to using more than one designated officer. Mr. Speaker, as the legislation says there should be no familial relationship with the person who is to be guided in decision-making and it should not be a relative. There may be circumstances where the person is familiar with the person he has to deal with, because Trinidad and Tobago is a small country and there may be circumstances where this happens and it may be that there is a need for having more than one designated officer in any health

institution in order for, perhaps two people or a panel of people to sit with the person who may be involved with the transplant to explain the circumstances of the transplant to that person.

Additionally, how is the designated officer to know that his explanation has been fully understood by the person who is covered by this particular piece of legislation? It may be that the designated officer feels that the person understands but, in fact, the person may not be fully cognizant of every aspect of the transplant that is to take place, so we have some concerns about that.

Clause 3(3) of the Bill talks about the revocation of the appointment of a designated officer but it does not indicate under what circumstances such a revocation would take place. We are aware that the revocation takes place by the Minister on the advice of the Medical Chief of Staff. We, on this side, would like to know what circumstances must exist for a revocation of the designated officer's position to take place.

Mr. Speaker, in circumstances where, as clauses 9 and 11 indicate, a minor is the person whose tissue is to be harvested—and those clauses indicate that the tissue to be harvested must be going to either a brother, sister or parent—for the use of a parent, how are we to determine that the parent may not use undue influence on the particular minor in order for his or her agreement to be obtained? It is because, in those clauses it is said that the agreement of the minor must also be obtained. This is a little strange to me, though, Mr. Speaker. If we are dealing with a minor, how are we to determine that the minor is fully cognizant of what is taking place and that we are, in fact, getting the true agreement of a minor? Because, as we all know, a minor cannot, in fact, give consent. So if the minor is supposed to give consent or agreement in the legislation, why are we also asking for the parent's consent? It just seems to be a strange concoction of clauses, Mr. Speaker. So I do not know if the Minister would be able to bring some clarity to that situation.

11.00 p.m.

Mr. Speaker, we have done some research in terms of determining whether a system of transplantation can, in fact, be instituted in Trinidad and Tobago at this time and our information is that in circumstances where there is end-stage kidney disease, as I indicated earlier, the team of practitioners that is needed does not now exist. In addition to that, even if this transplant does take place, the problem that exists is that there are not enough dialysis machines in Trinidad and Tobago for circumstances where someone has had a transplant, there is a problem and

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then there develops the need for the use of a dialysis machine. In the San Fernando Hospital alone there are only four machines for thousands of patients who need dialysis treatment, Mr. Speaker, and, as a consequence of that, even if the transplant does take place, if there is a problem there may still be resultant death because there is no proper back-up system.

So we on this side, as we indicated in the other place, have no difficulty with the general policy of this Bill but where we have a difficulty is in determining whether or not the system, the hospitals, the medical institutions and, indeed, the medical practitioners are, in fact, ready for instituting an effective system of human tissue and blood transplant and transfusion. I trust that the Minister would be able to bring some clarity for us on this side and, indeed, give us an assurance that once this legislation is enacted, regulations will be forthcoming and the health system will, in fact, be able to deliver what this legislation seeks to do. Thank you, Mr. Speaker. [*Desk thumping*]

The Minister of Health (Dr. The Hon. Hamza Rafeeq): [*Desk thumping*] Mr. Speaker, I thank the hon. Member for her contribution and for her support for this piece of legislation. She raised a couple of points and I would like to respond to a few of them. The first one is that for a transplant to take place, particularly with respect to the kidneys, there must be a team of doctors. The Member said that maybe that team does not exist in Trinidad and Tobago. Mr. Speaker, 14 successful kidney transplants have already taken place in Trinidad and Tobago and we have one of our own Members who sits here with us who has been involved in kidney transplants [*Desk thumping*]

The team comprises the Member for San Juan/Barataria. The team usually comprises two nephrologists, two surgeons, one vascular surgeon and an anesthetist. All those people are available in Trinidad and Tobago and the facilities are also available. In addition to that, Mr. Speaker, this Bill does not only cater for kidney transplants, it caters for corneal transplants and transplant of other tissues which at present are being done in Trinidad to a certain extent without any kind of regulations. This Bill seeks to regulate the practice of this.

Secondly, Mr. Speaker, the Member for Arouca South raised the issue of preventative medicine and primary health care. I assure her that this is the thrust of the entire health sector reform programme: primary health care, disease prevention and disease control but, of course, we cannot turn a blind eye to those people who already have end-stage renal failure and those people who are afflicted with diabetes and high blood pressure and who will eventually develop these conditions that need transplant. In the case of cornea transplant there is a degree of prevention that can be used. Many times we cannot do preventive care for that.

I did mention that, as far as the allocation of tissue is concerned, that will be dealt with in regulations and I would just like to mention that we are already at more than the halfway stage in drafting regulations. It is a very involved exercise. We are looking at legislation from many parts of the world. In dealing with the regulations we are a little more than halfway completed and we are working on that. Allocation of tissues is one of the aspects that will be dealt with.

I want to deal with the issue of minors. Mr. Speaker, minors are dealt with in two different ways in the legislation. One, is minors who can understand; the other one is minors who cannot understand. In the case of minors who can understand, they must agree and the parents must also agree. In the case of minors who do not understand, that is for a specific purpose. Tissues are only harvested from them for a particular reason and that is to save the life of a brother or a sister or a parent and we have put all the safeguards there to ensure that, as I said, these children are not exploited. As I said, if we have erred we have really erred on the side of caution.

Mr. Speaker, as far as the dialysis machines the Member mentioned, we accept that in our health sector in Trinidad and Tobago we do not have the number of dialysis machines or facilities to offer dialysis to all patients who need them. Tissue transplant is one of the answers to kidney failure rather than dialysis so that we hope—not we hope but if a patient has a successful renal transplant then that patient will not need dialysis. As I said, there are many patients who have chronic renal failure whom we are not able to dialyze but if we have the facility of transplants we can save many lives by that way.

These, Mr. Speaker, are some of the issues that were raised. I do not think there are any more. Once again, I thank the Member and Members opposite for giving us the support. I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, I take it that you all have the list of amendments made in the Senate on Tuesday, November 30, 1999. Apart from that there are no other amendments.

Clauses 1 to 10 ordered to stand part of the Bill.

Clauses 11 to 16 ordered to stand part of the Bill.

Clause 17.

Mrs. Robinson-Regis: Mr. Chairman, I would just like to ask a question in relation to clause 17. In circumstances where the person may not have expressed that he or she would have wanted to have tissue removed, has the Minister considered implementing a system where persons can state before death—like wearing a bracelet or having some document or something so that if someone dies in an accident we would have this document before, which says that the person is interested in having tissue removed and so on, or consents in—*[Interruption]*

Dr. Rafeeq: In clause 17(b), it talks about where the officer has no reason to believe a deceased had expressed an objection.

Mrs. Robinson-Regis: No. What I am trying to indicate is perhaps in the Regulation—because I am not asking for an amendment necessarily—you can look at the possibility of having a bracelet, or something on someone's driver's permit which would indicate—*[Interruption]*

Dr. Rafeeq: Which would indicate consent?

Mrs. Robinson-Regis: Yes. Thank you.

Clause 17 ordered to stand part of the Bill.

Clauses 18 to 28 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

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.

ADJOURNMENT

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that the House do now adjourn to Thursday, May 5, 2000 at 1.30 p.m.

Mr. Speaker, on that date, as I had indicated previously, we intend to do the Bill to amend the Sexual Offences Act, 1986, No. 6 on the Order Paper of today, and No. 7, which deals with distribution of estates of deceased persons. We will complete the committee stage of the Financial (Miscellaneous Provisions) Bill that we did today and we shall do Motions Nos. 1 to 6.

11.15 p.m.

Mr. Speaker, may I indicate to the Opposition and to you that in respect of Motion No. 7; it is unlikely we will have to continue that debate today, but propose a certain course at a certain stage. *[Interruption]*.

Adjournment

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Mrs. Persad-Bissessar: You said Thursday, May 5, 2000 and it is Thursday May 4, 2000.

Hon. R. L. Maharaj: I am sorry, Thursday, May 4, 2000. I said Thursday, May 5, 2000 but it is Thursday, May 4, 2000 at 1.30 p.m. Thank you very much. Thanks a lot.

Mr. Speaker: Hon. Members, before I put the question of the motion for the adjournment there are two matters in respect of which leave had been given. There are two questions.

Mr. Valley: Mr. Speaker, by discussion, we have agreed to postpone one of those questions, the one relating to the Member for Laventille East/Morvant, to Friday, May 5, 2000.

Hon. R. L. Maharaj: Mr. Speaker, that is so and I presume that with your leave you would agree that we do postpone that Motion to Friday, May 5, 2000. In respect of the other Motion there was a most unusual arrangement in that the Member for Tobago East went across to the Member for Tobago West and the agreement was effected very quickly. So subject to your leave and your consent, we would have that also put for Friday, May 5, 2000.

Mr. Speaker, I should mention that there are some other Motions for Thursday, but I suppose they would take their course. There are three Motions that I have for Thursday, am I correct? One dealing with the adverse effects on the people at Agra Street, St. James caused by the change of use and the construction of an unauthorized structure to St. James Meat Cottage at Agra Street, St. James—this has been given to the Minister of Housing and Settlements; the adverse effect on the non-intake of students at the El Dorado Youth Camp since its last graduation in 1999, and the non-functioning of other youth camps in the country for the Minister of Community Development; and the lack of any arrangement for the regularization of agricultural squatters in Diego Martin constituency, who have occupied state lands for a number of years. We will probably have all those Motions also on Thursday, May 5, 2000.

Mr. Speaker: Hon. Members, by consent, it is agreed that the matters raised which were on for today would be dealt with on Friday, May, 2000. So these two Motions would be dealt with on Friday.

Hon. R. L. Maharaj: Yes.

Mr. Speaker: None is for Thursday.

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Hon. R. L. Maharaj: Yes, those three Motions are for Thursday.

Mr. Speaker: The other three Motions are for Thursday.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 11.20 p.m.