

**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT
IN THE FIRST SESSION OF THE TWELFTH PARLIAMENT OF
THE REPUBLIC OF TRINIDAD AND TOBAGO WHICH OPENED
ON AUGUST 28, 2020**

SESSION 2020—2021

VOLUME 1

HOUSE OF REPRESENTATIVES

Friday, August 28, 2020



10.30 A.M.

The House of Representatives having assembled, and it being the first meeting of the First Session of the Twelfth Parliament of the Republic of Trinidad and Tobago, the Clerk of the House read the following Proclamation:

REPUBLIC OF TRINIDAD AND TOBAGO

No. 26 of 2020.

[L.S.]

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T., President of the Republic of Trinidad and
Tobago and Commander-in-Chief of the Armed
Forces.

PAULA-MAE WEEKES

President.

A PROCLAMATION

Whereas it is provided by subsection (1) of section 67 of the Constitution of the Republic of Trinidad and Tobago, that each Session of Parliament shall be held at such place within Trinidad and

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Tobago and shall commence at such time as the President may by Proclamation appoint:

Now, therefore, I, PAULA-MAE WEEKES, President as aforesaid, do hereby appoint the Red House, Port of Spain, Trinidad, as the place at which the First Session of the Twelfth Parliament of the Republic of Trinidad and Tobago shall be held and 10.30 a.m. on Friday the 28th day of August, 2020, as the time at which the said Session shall commence.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 25th day of
August, 2020.

ELECTION OF SPEAKER

The Clerk: Please be seated. Hon. Members, in accordance with Standing Order 4(1) of the House of Representatives, I now invite proposals for the Office of Speaker of the House, Twelfth Parliament.

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Clerk, I propose that Mrs. Bridgid Annisette-George do take the Chair of this House as Speaker.

Seconded by Hon. Shamfa Cudjoe.

The Clerk: Are there any other proposals?

Mr. David Lee: Madam Clerk, the Opposition would like to nominate Ms. Nafeesa Mohammed, Attorney-at-law, to be our candidate as Speaker of this House.

The Clerk: Hon. Members, Standing Order 4(6) of the House of

Representatives states—any seconder?

Seconded by Mrs. Kamla Persad-Bissessar SC.

The Clerk: Hon. Members, Standing Order 4(6) of the House of Representatives states that:

“If two (2) candidates are nominated for election of Speaker, the Clerk shall propose the question that the candidate who was first proposed should be the Speaker. If that proposal is approved by a majority of the Members of the House, the Clerk shall declare that candidate to have been elected as Speaker. If the proposal is negatived, the Clerk shall propose a like question in respect of the other candidate.”

In the circumstances, I now put the question to this House of Representatives that Mrs. Bridgid Mary Annisette-George do take the Chair of this House as Speaker.

Hon. Member: Division.

The Clerk: We need to take a division to determine the numbers, please.

The House divided: Ayes 21 Noes 19

AYES

Robinson Regis, Hon. C.

Rowley, Hon. Dr. K.

Al-Rawi, Hon. F.

Imbert, Hon. C.

Young, Hon. S.

Beckles, Hon. P.

Hinds, Hon. F.

Deyalsingh, Hon. T.

Cudjoe, Hon. S.

Election of Speaker (cont'd)

Gadsby-Dolly, Hon. Dr. N.

Gonzales, Hon. M.

Forde, E.

Mc Clashie, Hon. S.

Webster-Roy, Hon. A.

Richards, K.

Manning, Hon. B.

Leonce, Hon. A.

Morris-Julian, Hon. L.

De Nobriga, Hon. S.

Scotland, K.

Monroe, R.

NOES

Lee, D.

Persad-Bissessar SC, Mrs. K.

Ameen, Ms. K.

Charles, R.

Mohit, Ms. V.

Moonilal, Dr. R.

Benjamin, Ms. M.

Paray, R.

Indarsingh, R.

Bodoe, Dr. L.

Hosein, S.

Padarath, B.

Haynes, Ms. A.

Election of Speaker (cont'd)

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Tancoo, D.

Rambally, D.

Ragbir, Dr. R.

Ram, A.

Seecheran, Dr. R.

Ratiram, R.

The Clerk: With a division of 21:19, there is a majority of Members voting for Mrs. Bridgid Mary Annisette-George. And in those circumstances, in accordance with Standing Order 4(6), I declare Mrs. Bridgid Mary Annisette-George the duly elected Speaker of the House. [*Applause*] I now invite the Marshal to escort the Speaker to the Chamber, please. Thank you.

OATH OF ALLEGIANCE

Mrs. Bridgid Mary Annisette-George took and subscribed the Oath of Allegiance as required by law.

[MADAM SPEAKER *in the Chair*]

ELECTION OF DEPUTY SPEAKER

Madam Speaker: Could you all please be seated? Hon. Members, in accordance with Standing Order 5(1) of the House of Representatives, I now invite proposals for the Office of the Deputy Speaker of the House. Leader of the House.

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. I wish to propose that Mr. Esmond Forde do take the Chair of this House as Deputy Speaker.

Madam Speaker: Somebody second.

Seconded by Hon. Shamfa Cudjoe.

Madam Speaker: Are there any other proposals? There being no other

proposals, I now declare Mr. Esmond Forde duly elected Deputy Speaker of the House and I invite him to take the Oath of Allegiance. [*Applause*]

AFFIRMATION OF ALLEGIANCE

Mr. Esmond Forde took and subscribed the Affirmation of Allegiance as required by law.

Madam Speaker: The Clerk will now administer the Oath or Affirmation to each of the other Members of this honourable House. Could we all stand?

OATH OF ALLEGIANCE

The following Members took and subscribed the Oath of Allegiance as required by law:

Mrs. Camille Robinson-Regis	Mr. David Lee
Dr. Keith Rowley	Mrs. Kamla Persad-Bissessar SC
Mr. Faris Al-Rawi	Ms. Khadijah Ameen
Mr. Colm Imbert	Mr. Rodney Charles
Mr. Stuart Young	Ms. Vandana Mohit
Mrs. Penelope Beckles	Dr. Roodal Moonilal
Mr. Fitzgerald Hinds	Ms. Michelle Benjamin
Mr. Terrence Deyalsingh	Mr. Rushton Paray
Ms. Shamfa Cudjoe	Mr. Rudranath Indarsingh
Dr. Nyan Gadsby-Dolly	Dr. Lackram Bodoie
Mr. Marvin Gonzales	Mr. Saddam Hosein
Mr. Stephen Mc Clashie	Mr. Barry Padarath
Mr. Foster Cummings	Ms. Anita Haynes
Mr. Kennedy Richards	Mr. Davendranath Tancoo
Mr. Brian Manning	Mr. Dinish Rambally
Mr. Adrian Leonce	Dr. Rai Ragbir

Oath of Allegiance (cont'd)

2020.08.28

Mrs. Lisa Morris-Julian

Mr. Arnold Ram

Mr. Symon De Nobriga

Dr. Rishad Seecheran

Mr. Keith Scotland

Mr. Ravi Ratiram

Mr. Roger Monroe

AFFIRMATION OF ALLEGIANCE

Mrs. Ayanna Webster-Roy took and subscribed the Affirmation of Allegiance as required by law.

PRAYERS

Madam Speaker: Hon. Members, you may sit. Hon. Members, the President of the Republic of Trinidad and Tobago desires to address all Members of Parliament. This sitting is now suspended.

11.34 a.m.: *Sitting suspended.*

11.35 a.m.: *Members of the Senate arrived and took their places in the Chamber.*

12.03 p.m.: *Her Excellency the President, accompanied by the President of the Senate and the Speaker of the House of Representatives, arrived in the Chamber.*

[INVOCATIONS]

PRESIDENT'S ADDRESS

Her Excellency the President of the Republic of Trinidad and Tobago, Ms. Paula-Mae Weekes, ORTT, addressed both Houses of Parliament as follows:

Madam President of the Senate, Madam Speaker of the House, Hon. Members of Parliament. I thank Madam Speaker for her kind invitation to address both Houses at this First Session of the Twelfth Parliament of the Republic of Trinidad and Tobago. As the only Member of Parliament whose

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tenure ran unbroken in the transition from the last Parliament to this one, I make bold to welcome you to this afternoon's proceedings whether you are here for the first time or the umpteenth.

You all took your respective Oath this morning to conscientiously and impartially discharge your responsibilities to the people of this nation. The essence of the relationship between Members of Parliament and the public is one of trust, confidence and fidelity. Notwithstanding some significant milestones over the years, the strength of that bond has been eroded by the failure of successive Parliaments to deliver consistently on the reasonable expectations of the populace, and to make matters worse, citizens have come to feel that they have been repeatedly forsaken, betrayed, and mamagued by those they have put in a position to make laws for their peace, order and good governance.

Members of the Twelfth Parliament, I need to ask you a personal question. Can we trust you? I am asking for a friend. Or more precisely, firstly, for the roughly 658,000 citizens who on August the 10th did their civic duty, hoping that you prove ready, willing and able to ensure their security, prosperity and future, as well as for the rest of the population. Hon. Members, can we trust you to discharge your functions in accordance with your Oath? Your core function is lawmaking, an essential service in our democracy, one which gives you the power to transform the lives of our citizens and our nation. Each of you seated in these Chambers has the primary purpose of conducting the people's business. Your being here today suggests your willingness to discharge your duties in a thorough and responsible manner, and to treat all persons equally.

Whether you arrived via the ballot box or by virtue of selection it is

vital at this time that you have a full grasp of your remit and your limitations and are totally committed to the task at hand. That is the only way you will be able to keep the promises inherent in your Oath. In the words of author Roy T. Bennett:

“Consistency is the true foundation of trust. Either keep your promises or do not make them.”

You might think this advice is a little too late since you already made your promises to the nation this morning in your Oath, but now is the right time to begin keeping those promises.

Can we trust you to measure up to the standards required of high office? You have heard no doubt that with great power comes great responsibility. Apart from your legislative function there are other requirements and expectations of you. I see many new parliamentarians among our number. You will have to mature into your role very quickly. Make no mistake, your grace period, if indeed there was one, was between the election or your appointment and the convening of Parliament today. And from today you are expected to get down to managing the affairs of the public. The novelty of being a parliamentarian is not an acceptable excuse for any shortcomings. In this form of service there is no such thing as beyond the call of duty. Be prepared to work selflessly and tirelessly for the duration of your term. It will be a long haul. The Prime Minister's recent reference to 60 months perhaps puts it in its right perspective, drawn out days, sleepless nights, and lengthy debates into the wee hours of the morning will be par for the course. But they are just some of the sacrifices you must be prepared to make.

Parliament requires persons of high caliber. Respect, self-control and

patience must be your guiding principles both within and without these halls. It is said that a person's character is indivisible. You are required to conduct yourself in your private affairs in the same exemplary manner as you conduct the affairs of Parliament. You are automatically role models for many of our youngest citizens and must uphold the highest standards of behaviour for the benefit of both the business of these Chambers, as well as for those who will take pattern. Many of your offices fall among the top tiers in our Table of Precedence, and as responsible office holders you are expected to acquit yourself accordingly.

Can we trust you to listen to what we are saying, empathize and show compassion for our hardship? The general complaint is that after an election, constituents only see their Members of Parliament in the lead up to the next election. When canvassing for votes you are omnipresent, all ears and full of concern for their plight, but once you win your seat you become remote, busy and unavailable to your constituents. The people who exercise their franchise in your favour want to be assured that they will get value for their vote. They want you to listen to, not just hear what they are saying, understand their hopes and fears and bring their concerns to this august body. You are now their power source as they were yours 18 days ago. They want you to use your time in these Chambers to represent their interest, not engage in frivolous and irrelevant crosstalk, although I do admit that a little well placed picong can ease the tension.

On another level, when Parliament's Committees interact with government officials, interested parties, legal and other professional associations and the general public, there must be a genuine attempt to solicit valuable input that is considered seriously in the eventual lawmaking

process.

Members of Parliament, can we trust you to put aside narrow partisan interests and work together for the good of us all? And can we trust the non-partisan Independent Bench to remain above the fray and serve the interest of the whole? The difference between a politician and a statesman according to American writer James Freeman Clarke is that a politician thinks about the next election, while the statesman thinks about the next generation. As you make your contributions and finally vote on proposed legislation, what is your true focus? Of course, voting along party lines has its place but at the end of the day what is the desired outcome? It can only be the welfare of Trinidad and Tobago as a whole. The man on the street is not concerned about the political gamesmanship that often unfolds in these Chambers. He wants timely legislation that improves his quality of life and uplifts the nation, and that requires that parties, without sacrificing their principles, work together to achieve the common good, and that the Independent Bench serves to bridge any gaps by its objective approach and loyalty to only the people. If there was ever a time for Government, Opposition and Independent Benches to work together, that time is now given the COVID-19 pandemic and its exacerbation of pre-existing problems.

Can we trust you to bring your A-game to these Chambers, taking night to make day if necessary, so that you can make a meaningful contribution? Parliamentary debates can sometimes be long and tedious, but that does not give carte blanche to Members to become disengaged from the process. How many times has the public been witness to Members who were nodding off, engrossed in their phones, or otherwise showing no interest in the ongoing debate? However challenging the process, members of the

public expect you to remain alert in order to actively defend their interests. Whether or not the Bill under debate requires your input or is within your area of expertise, it is almost certain to affect some, if not all, of your constituents. Even when you are not on your feet, citizens expect your full participation in the process. And when you do make a contribution to the debate let it be well informed, coherent and digestible by the average person. There are many sayings about trust, but the one I favour and find apposite for this gathering, is by former British politician Chris Butler:

“Trust is earned when actions meet words.”

By putting yourself forward for election and or by agreeing to be appointed to the Senate, you have spoken. Now is the time for you to act. This morning I have asked all the questions, but I invite you to engage in some timely introspection and ask these same questions and others of yourselves and each other. What is my track record in Parliament and elsewhere? What sacrifices am I willing to make? What are my intentions, aspirations and motivations? Are they aligned with my true purpose of serving the people of our twin island republic? The correct answers to these questions will reassure us that we can trust you, and that, hon. Members, is all that we really ask. Thank you. [*Desk thumping*]

12.22 p.m.: *Her Excellency the President, accompanied by the President of the Senate and the Speaker of the House of Representatives, left the Chamber.*

12.28 p.m.: *Sitting resumed.*

PAPER LAID

Address by Her Excellency the President on the occasion of the Opening of the First Session of the Twelfth Parliament of the

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Republic of Trinidad and Tobago. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]

To be printed as a House Paper.

PUBLIC HEALTH (AMDT.) BILL, 2020.

A Bill to amend the Public Health Ordinance, Ch. 12 No. 4, to make provision for fixed penalties and fixed penalty notices for offences under the Public Health Ordinance, Ch. 12 No. 4 [*The Attorney General*]: read the first time.

Motion made: That the next stage be taken later in the proceedings.
[*Hon. F. Al-Rawi*]

Question put and agreed to.

[*Electronic device goes off*]

Madam Speaker: Can I just advise all Members that their devices should be on silent.

ARRANGEMENT OF BUSINESS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, I seek your leave in accordance with Standing Order in 122(1) to move a Motion for the suspension of Standing Order 45(1) given the fact that we are still in the midst of a global pandemic.

Madam Speaker: Hon. Members, leave is granted. Leader of the House.

Hon. C. Robinson-Regis: Thank you very kindly, Madam Speaker. Madam Speaker, I beg to move that Standing Order 45(1) be suspended during the period of the current global pandemic and that the time limit for speeches in debates be allotted as follows. Thirty minutes for the mover and the first responder with no extensions and twenty minutes for all other speakers with

no extensions.

Thank you, Madam Speaker.

Madam Speaker: This does not allow for any debate.

Question put.

Hon. Member: Division.

The House divided: Ayes 22 Noes 19

AYES

Robinson-Regis, Hon. C.

Rowley, Hon. Dr. K.

Al-Rawi, Hon. F.

Imbert, Hon. C.

Young, Hon. S.

Beckles, Hon. P.

Hinds, Hon. F.

Deyalsingh, Hon. T.

Gadsby-Dolly, Hon. Dr. N.

Gonzales, Hon. M.

Forde, E.

Mc Clashie, Hon. S.

Webster-Roy, Hon. A.

Cummings, Hon. F.

Richards, K.

Manning, Hon. B.

Leonce, Hon. A.

Morris-Julian, Hon. L.

De Nobriga, Hon. S.

Scotland, K.

Monroe, R.

Cudjoe, Hon. S.

NOES

Lee, D.

Persad-Bissessar SC, Mrs. K.

Ameen, Ms. K.

Charles, R.

Mohit, Ms. V.

Moonilal, Dr. R.

Benjamin, Ms. M.

Paray, R.

Indarsingh, R.

Bodoe, Dr. L.

Hosein, S.

Padarath, B.

Haynes, Ms. A.

Tancoo, D.

Rambally, D.

Ragbir, Dr. R.

Ram, A.

Seecheran, Dr. R.

Ratiram, R.

Question agreed to.

Madam Speaker: Hon. Members, this sitting is now suspended for lunch.

We shall resume at 1.35 p.m.

12.35 p.m.: *Sitting suspended.*

1.35 p.m.: *Sitting resumed.*

Madam Speaker: The Attorney General

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, I beg to move:

That a Bill to Amend the Public Health Ordinance, Ch. 12 No. 4, to make provision for fixed penalties and fixed penalty notices for offences under the Public Health Ordinance, Ch. 12 No. 4 be now read a second time.

Madam Speaker, I am a student of history, and certainly the history of the Parliament and to the best of my knowledge I have not come across an occasion when a Government has had to pilot legislation on the same day as the proclamation for the opening of a parliamentary session has been read. And I say that not because of that being a moment in historical event, but rather to indicate the urgency of the matter before us and the seriousness of the provisions, which this House is invited to consider.

The Bill before us, Madam Speaker, is four clauses long, the short title at clause 1, the interpretation or clause 2, and then clauses 3 and 4, treat with certain measures which are both driven to cause an amendment to the Public Health Ordinance. Again, as a student of history, and I am sure that there are many of us in this particular Chamber today, and as I stop for a moment to welcome all Members of Parliament into the session that we now sit, and to express my gratitude to the Hon. Prime Minister for reposing the confidence in me that he has by this appointment, but more particularly also

to the people of Trinidad and Tobago at San Fernando West, for allowing me to return to this seat which I occupy.

I say, Madam Speaker, that as a student of history, the Public Health Ordinance makes for great reading. It is an Act rather an Ordinance of Parliament it is No. 15 of 1915 came into effect first of January 1917. And for those of us who have descended in the form and fashion that we have from our ancestors, you will find in the definition section at section 2, the reference to a:

“‘Barrack’...includes any building or collection of buildings divided into rooms occupied singly or in sets by persons of the poorer class and to which there are a common yard and common...”—services.

There is a reference to a:

“‘Common lodging house’ means that class of lodging house not being an hotel, inn or public house, in which persons of the poorer class are received for short periods and though strangers to one another are allowed to inhabit one common room,...”—et cetera.

I stop to say that to indicate the very law which we amend today has significant historical significance for all of us sitting in this Parliament, as we have come forward from our ancestors.

Madam Speaker, to dive to the issue at hand, we are of course proposing today in the legislation, a mechanism by which we can regulate the law in a better administrative function for the peace, order and good governance of Trinidad and Tobago. The Public Health Ordinance is robust, albeit old legislation. This Public Health Ordinance which is pre-independence and pre-republican has within it a very important structure

which has allowed Trinidad and Tobago to stand unique in its management of the COVID pandemic.

In the laws of Trinidad and Tobago, starting with the supreme law which is the Constitution, we have of course the option of the recognition that one may be, and we look to section 8 of the Constitution, that Trinidad and Tobago may have a period of public emergency for, and if you look to the public emergency, one which was arisen by:

“the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence...”

We also have in the laws of Trinidad and Tobago, the Disaster Measures Act, Chap. 16:50. That Disaster Measures Act allows for the declaration of parts of Trinidad and Tobago to be declared disaster areas and to be managed by way of the laws providing for segregation, management, et cetera, similar to what our COVID Regulations allow. But these laws stand in comparison to allow Trinidad and Tobago under the Public Health Ordinance, the privilege of not declaring a state of emergency and not finding yourself in difficulty, insofar as the whole of Trinidad and Tobago is affected and not parts, which you would have to consider in the Disaster Measures Act.

So the legislation before us, the Public Health Ordinance, as this Bill proposes amendments to allow the unique opportunity for the measurement of remedies. Now, to trigger the amendments before us that we consider, one has to have regard to section 103 of the parent law. It is by section 103 that the Governor, and one must read Governor effectively to mean the provisions that come forward at independence, where Governor is managed

by virtue of the Existing Laws Amendment Order No. 8 of 1962 that Governor shall be a reference to Governor General. And if one looks to the provisions of the Constitution itself at Chap. 1:01, Governor General is then read to mean President. So section 103 under Part 5 sorry, Part 15 of the Public Health Ordinance allows the Governor, that is the President, and when one reads the Constitution, the President is the Cabinet because this is not the President at his own discretion or by way of consultation, the Cabinet effectively has the provision via the Minister of Health coming to the Cabinet to declare a dangerous infectious disease, that is the President makes the declaration on that recommendation, the Cabinet so advises, but section 105 of the Public Health Ordinance allows the board—if you read the Ordinance—and board by way of amendment to the law in 1965, and then 1976, is to be read as the Minister of Health.

The board has the ability to issue regulations with regard to the control of any dangerous infectious disease. It is now a matter of public record that on the 31st of January, 2020, Her Excellency the President pursuant to advice rendered to her, did in fact issue the declaration of a dangerous infectious disease for the COVID-19 disease as so categorized by the World Health Organization. Section 105 as it has been applied by the Government, in the period March to today's date, has involved a series of regulations, some 24 regulations, 25 in total, coming towards the regulations now before us that will ensue. These regulations have managed the COVID pandemic in a very nimble and agile fashion, such that the Chief Medical Officer can advise the Minister of Health as to certain parameters, the Minister of Health then sits with the Cabinet and then regulations are

promulgated and confirmed by Her Excellency the President, under the Interpretation Act by way of the usual measures.

What we seek to do today, Madam Speaker, in allowing for the latitude of section 105 to go into further expansion is to allow for regulations to contemplate an alternative route. Now what do I mean by that? Section 105 is the power to make regulations and you can effectively do a wide range of things. And all regulations are subjected to sections 132 and 133 of the Public Health Ordinance. In the breach of regulations, one has to consider section 105 subsection (3). The current law as we amended it in March of this year by Act of Parliament No. 4 of 2020 converted the penalty for a breach of regulations from \$480 and six months imprisonment to \$50,000 and six months imprisonment. Therefore, if we have a breach of regulations as it stands now, one is compelled to look to an arrestable offence, meaning breach a regulation, you are going to be brought forward for the commission of the offence; a police officer acting in the usual fashion would have to charge you, bring you before a magistrate, you would have to arrange bail, if it was not station bail, and you would have to appear before the magistrate to enter a plea and be treated with under the Summary Courts legislation.

What we do today, Madam Speaker, in clause 4—clause 3 of the Bill, the first thing that we do is to adjust the penalty. We are proposing in clause 3 of the Bill to move the penalty from \$50,000 and six months, to instead \$250,000 and six months. Permit me to remind hon. Members, as I am sure they are all aware that these are expressions of the maximum sentence at law. It is not that the summary offence is to be treated automatically with the

maximum offence of \$250,000. A magistrate, when looking at the breach of regulations can go up to a maximum of \$250,000. As my friends on both sides would know, that allows you anything from zero dollars and cents under a reprimand and discharge, for instance, under the Summary Courts route to in fact, the full extent depending upon the severity and of course, one has the due process provisions where you can actually have your matter go by way of appeal for further consideration.

In clause 3, we are proposing that we amend and there is an amendment to be made at committee stage. It is inaccurately referred to in the Bill as subsection (2) of section 105; it should in fact be subsection (3) of section 105 as it is referred to in clause 3(a) and (b) of the Bill, and we are further saying and this is the important fulcrum here, that we are inserting in a subsection (3) that:

“Regulations made under this section”—that is section 105—“may prescribe-

- (a) the form of the fixed penalty notice under section 105A;
and
- (b) the duties of Clerks and the information to be supplied to them.”

That takes us to clause 4. In clause 4, we are introducing in the eight subsections referred there in subsections—I should say in proposed new sections 105A through H inclusive, we are proposing the introduction of a fixed penalty system. The fixed penalty system is something which is well known to the laws of Trinidad and Tobago. We have fixed penalties under the Dangerous Drugs Act, under the Litter Act, and other pieces of law, we

certainly have them in full operation. The one that is most robust and most recent is in fact the Motor Vehicles and Road Traffic legislation.

We are proposing in clause 4 by the introduction of these new sections to the law that we propose sections 105A through H inclusive, we are proposing that a regime of fixed penalties can be applied, so that there is an alternative route to enforcement for breach of regulations. This alternative route allows for a police officer acting with reasonable cause, obviously, as we see in 105A subsection (2) to visit someone who is breaching with a—who is potentially in breach of an offence as we create offences for breach of regulations to visit that person with a fixed penalty notice. That policeman would have to issue the notice; duplicates would have to be sent to the Court to the Clerk of the Court; we would then have the option for the person to pay or for the person to not pay as the case may be. There are circumstances painted in the Bill which allow for the deeming of the notices in the event that you have failed to pay within a particular time. You then trigger sections of the Summary Courts Act, in particular sections 42 and 43 where the summons issued is a deemed summons if you have not paid your fixed penalty notice.

Effectively the law then goes in terms of architecture, passing through the particulars of the offence, the manner in which you prescribe what the fixed penalty notice is intended to include. And you will see that at 105B, the particulars of the charge, the manner in which you can pay for the fixed penalty, the manner in which the amount of the penalty is to be paid and to whom, what happens with non-listing for proceedings, the certificate of

payment in the event that you have paid and what is the consequence of that, and then what your consequence of failure includes when you look at 105G.

1.50 p.m.

Critically important, 105H introduces the fact that:

“The Minister may from time to time by Order amend the regulations made under section 105 to—

- (a) add any offence to the Schedule to the Regulations...
- (b) remove any offence from the Schedule; or
- (c) alter the fixed penalty...”

So let us put down the law for a moment and explain this in simple terms. The Public Health Ordinance allows for the creation of regulations. Regulations allow for offences to be detailed as to what is an offence or not. We are looking at whether one has a bar in operation, you are found in a public place such as a beach which is currently limited, you are in a casino, or you are wearing a mask. The regulations may prescribe any number of events.

Instead of being confined only under section 105(3) to an arrestable offence with a maximum of \$50,000 and six months, you now have the alternative of a policeman saying—if these regulations specify what is to be treated as a fixed penalty, that the policeman will say, the regulations have a Schedule. In that Schedule, for instance, mask wearing is treated by way of a fixed penalty notice. Those regulations now state what your penalty for failing to wear a mask by way of example will be. And the intention of the Government is to issue these regulations with a Schedule by which we immediately prescribe fixed penalty notices, administrative route, with

charges identified in law. And what it is that we propose?

The regulations, once issued in the normal fashion, in the process I have defined previously, will now prescribe by way of publication that failure to wear a mask in a public place, with certain exceptions, for instance, with respect to age or medical condition or physical disability or in public circumstances advised by the CMO, through guidelines, providing for exceptions, that failure to wear a mask, for instance, will attract, by way of first offence, a thousand dollars in respect of the breach, by way of second offence to \$2,000 and by way of third offence to \$5,000. After that, you are looking instead to the arrestable offences.

And, Madam Speaker, in constructing the formula for fixed penalty notices in the parent law, we allow importantly for more matters to be regulated by way of fixed penalty. For instance, if one contemplates the need for a self-quarantined provision where the CMO advises the Minister of Health and the Cabinet that it is appropriate to move to the stage of self-quarantine, you now have the ability to issue fixed penalty notices for breaches of self-quarantine as opposed to arrestable offences. It is for that reason that we have sought to amend the maximum ceiling, as you see in clause 3 of the Bill, moving it from \$50,000 and six months to \$250,000 and six months.

So the Bill allows for, quite simply put, a formula for fixed penalty regime. That formula is to be applied by way of regulations. Regulations can be adjusted dynamically and from time to time in the fashion of the Cabinet going to work to promulgate and to produce these regulations. The regulations will specify what the sum is and what it can be in multiple

circumstances, for instances, by way of first offence, second offence, third offence, et cetera. It also then allows for easy variation of those sums by way of an Order to amend the Schedule to the regulation.

Madam Speaker, when one drafts law, one must contemplate the law standing for all time. So this law is not drafted simply for mask wearing. It is a formula to allow for a number of events to be done by way of fixed penalty notice, and it also allows for variation. For instance, if the severity demonstrates that it is no longer suitable to cause compliance by way of fixed penalty notices, you can revert to arrestable offences and treat with more serious charge. Let me assure hon. Members that there are multiple precedents in our own law as to a fixed penalty regime.

Very importantly, this Bill allows, Madam Speaker, for the Clerk of the District to receive payments and that you can receive payments actually at the district. I want to remind that we no longer have 12 magisterial districts. We now have three magisterial districts: Port of Spain North, all of north including Port of Spain and down to basically central called the north district, south, and Tobago. There are only three districts because, importantly, Madam Speaker, we allow for the payment of penalties—and you will see that 105C(2), we also allow for penalties by way of Electronic Payments into and out of Court Act in 2018. In other words then, you can pay outside of the court using electronic payments as we do currently for a number of services, including the motor vehicle and road traffic demerit point system and fixed penalty system which is actively in operation as we speak. It was so proclaimed and put into effect on the 26th of May, 2020.

So there is a very robust system of multiple opportunities for

satisfaction of the law. This law preserves the right of appeal. This law preserves the fact that you can pay a penalty and still appeal, that you are not stopped or bound in any form of acquiesce if we use the civil comparators to the fact that you have paid the penalty and, therefore, you deny yourself the right of appeal. And that, Madam Speaker, can be found in clause 4 of the Bill where you still have the ability, notwithstanding payment, to be deemed to have preserved your right of appeal. That is to be found at page 2 in subsection (6) of clause 4 in reference to new proposed section 105A as in Alpha.

Madam Speaker, we allow as well a certain amount of privilege for movement. The question is always, can law change society? The question is obviously going to be, well how does one propose the limits? Let me remind that for a seatbelt offence you are looking at \$2,000. In a situation for failure to wear a seatbelt you may hurt yourself or a limited number of people in a car accident, but in the case of the COVID pandemic, failure to wear a mask, by way of example, or to obey a self-quarantine outside of the provisions of the Quarantine Act and instead relying on the Public Health Ordinance for quarantine purposes, you are looking at the potential to infect hundreds if not thousands of people on an exponential factor and, more particularly, you are dealing with the situation of death being the risk, especially to the most vulnerable in society.

Madam Speaker, we do propose to circulate those very small amendments at committee stage to correct the inadvertent reference in clause 3 of the Bill to subsection (2) changing to subsection (3). I look forward to contributions coming from hon. Members. Of course, the Government is

willing to listen to the proposals put forward. I want to remind that we are not debating any regulation for mask wearing today. We are simply creating in the parent law the springboard to use an administrative formula of fixed penalties, an alternative to treating with the offences for breach of regulations, that alternative being a second route which does not compel you to arrest someone, take them down to the police station, arrange bail at station or in the Magistrates' Court, et cetera.

So, Madam Speaker, I certainly look forward to the contributions across the floor with the hope that we will get to committee stage quite quickly and I beg to move. [*Desk thumping*]

Question proposed.

Mr. Saddam Hosein (*Barataria/San Juan*): Thank you. Thank you very much, Madam Speaker, for recognizing me to join in this debate in this august Chamber. And just like the Attorney General, I would like to take this opportunity to congratulate all Members of Parliament in the recently concluded general election of 2020. [*Desk thumping*] And standing here, Madam Speaker, as the youngest Member of Parliament in this Twelfth Parliament, I want to pay special tribute to the Member for Siparia for allowing the youths an opportunity to have a place [*Desk thumping*] and a space in this Parliament to represent the people of Trinidad and Tobago. Madam President, I would also like to thank the constituents of Barataria San/Juan—Madam Speaker, sorry. I am accustomed to another House. But, Madam Speaker, I would like to thank the constituents of Barataria/San Juan who have reposed their confidence and support in me in allowing me to win this particular seat in this Parliament. [*Desk thumping*]

Now, the Attorney General did indicate, historically, that this is something quite extraordinary that we are sitting right after a ceremonial opening of Parliament to debate a particular piece of legislation, and this comes on the heel, Madam President, that the world is facing the COVID-19 pandemic. And it is true that the Government and the citizens of this country have to take certain measures and steps in order to protect themselves and to ensure the health and safety of everyone, because this Madam President, is—Madam Speaker, this is one of the deadly diseases that we are facing right now.

And before I began my research, I looked at what the Ministry of Health would have posted through their media release, and as of today, this morning, there were 22,792 samples submitted to CARPHA. Of those samples, 1,512 would have tested positive, 867 active cases, 17 deaths—two persons would have died today and I express my condolences to them on behalf of the Opposition—and 628 persons have been discharged. Now, what does this tell us? It tells us that we have to act swiftly, we have to act certainly and we must act effectively in order to curb the further spread of this deadly virus on our population.

Now, we have seen earlier on that the Government took certain strong measures, in fact, to curb the spread of the deadly virus, but recently we have seen that the cases have exploded and, Madam Speaker, that is something that we have to explore in detail. Now, this debate strictly deals with respect to the regulations, the enforcement of the regulations and the administration of the regulations made under the Public Health Ordinance.

Now, we on this side, our duty is to ensure that we fight this virus,

that we protect the safety and health of our citizens. And yes, the Opposition Leader did in fact indicate that we will be supporting the legislation with respect to the wearing of face masks, but we have to look at the details in the Bill. And that is why we are here in this Parliament because when you look at the Bill that is presented before this particular House, we have identified certain issues, and the population is looking on at us right now, Madam Speaker, and it is said, Madam Speaker, that this Bill that we are debating today deals with the wearing of face masks. So everyone, including Members of this House, before we saw the Bill, the population has been looking out for a piece of legislation that dealt with making face masks mandatory.

Now, I was surprised by the Attorney General's statement that, in fact, this Bill does not deal with that and none of the provisions in the Bill deals with that, and that is something that we have to look at. Because you came with haste. You said that we have to pass this Bill, but the Members of this particular House, Madam Speaker, we deserve some more respect. [*Desk thumping*] At least provide us with the draft regulations [*Desk thumping*] for what we are going to enforce. So we are setting up an entire system to enforce regulations, Madam Speaker, in the courthouse, but we do not know what we are going to enforce. [*Desk thumping*]

You know, many persons in the population are asking whether or not the wearing of a face mask—the mandatory wearing of a face mask—whether they have to wear it in their cars, whether persons of a certain age have to wear it, whether there would be any exceptions. We do not know none of that, because the Government again has not done their job to provide

us with that information. [*Desk thumping*] And we saw that coming from the Eleventh Parliament to the Twelfth that the Attorney General may have acted with a little more competency in this particular Parliament. [*Desk thumping*]

Now, Madam Speaker, you are asking us for our support in this particular legislation but, at the end of the day, we are left without any information. Now, this is on the heels of the fact that I have, as a matter of public record, the Prime Minister of this country saying that there is no point in making a law that cannot be enforced when he spoke of the wearing of face masks. This is Loop TT, Madam Speaker, on the 30th of May, 2020, where the Member for Diego Martin West did, in fact, say that: Why we going to create a law for people to wear mask if you cannot enforce it? So, now, you are bringing a Bill that deals with the entire enforcement of wearing face masks and also other regulations made under the Public Health Ordinance, but the Prime Minister has had a different view from now. What changed your view?

The Attorney General did not indicate to us how in fact, for example, they are going to enforce the mandatory wearing of face masks, one; two, any other offences created under the regulation, and three, Madam Speaker, whether or not the Judiciary, the courts, are in a state to administer this. Because, as I know, there are many courts, district courts, being shut down right now in the country, Madam Speaker. They are being shut down in the country because there are positive cases of COVID-19 in some of those courts, but yet you are encouraging persons to come to the court to pay a fine, to pay a ticket. Now this, Madam Speaker, must be dealt with

holistically. You have to indicate to us whether or not this particular piece of legislation will in fact be enforced or whether or not we are coming here as a PR game for the Government in its fight against COVID. [*Desk thumping*] And I think we need answers to that.

But, in fact, it was the United National Congress, the UNC, since April 2020, that has called for the wearing of face masks to be made mandatory [*Desk thumping*] because this is when the Centre for Disease Control and the United States made recommendations that this can help curb the spread of the virus. But then you come for us in this Parliament to say, okay, let us make face masks mandatory, but the population does not know what face mask to wear, which one to wear—whether you could put a bandana on your face and still comply with the law, a jersey. I know the Minister of Health, Madam Speaker, the Member for St. Joseph, is busy making masks with old jerseys. [*Desk thumping*]

Then, most of us will remember also, we will remember that there was a tender for \$5 million being issued in this country for wearing face masks. I do not know how many masks the Government gave out, but I can tell you on this side we gave out over 60,000 free face masks. [*Desk thumping*] That is what we did. [*Desk thumping*]

So, Madam President, when it comes to this—Madam Speaker, sorry, I do apologize—issue with respect to this particular piece of legislation, we have to look at the efficacy and the efficiency. We have to see, in fact, whether or not what we do in this Parliament is going to achieve the legislative aim, because that is what you have to do. When you are looking at making laws in the country, there must be a policy and then you have the

laws to enforce the policy and whether or not this law will in fact achieve the legislative aim. So that is the first prong.

Now, there are benefits with respect to what is being proposed here by the Attorney General in this Bill in terms of fixed penalty, and the benefits are, because it applies to other laws. We will be accustomed, many of us, if you have received a ticket for a motor vehicle offence, that the police officer will issue the ticket then afterwards you go to the court. You either pay the ticket or if you do not pay the ticket, a date will be set for you to appear before the magistrate and then the matter will be proceeding as a regular summary court offence. Now, this is exactly what is being proposed in this Bill. There is no difference from that in terms of how it proceeds. But we have some issues, Madam Speaker, through you to the Attorney General, in terms of some of the particular issues as it relates to the administration of these fixed penalty notices.

Now, I want to just go on to clause 4(6). And, Attorney General, you touched on this very early in your presentation, and that deals with the appeal. Now, there is no—I stand to be corrected—I do not know any other particular piece of legislation that there is an appeal through a magistrate. Now, subsection (6) of clause 4 reads:

“Notwithstanding any provisions of this Act or any written law to the contrary, a person who pays a fixed penalty before the expiration of the time specified for the payment thereof may, in the prescribed form, appeal to the Magistrate in the district in which he paid the fixed penalty in respect of the offence for which he was charged.”

Now, the issue with respect to this is that you are dissuading persons from

coming to court but you are asking them to pay the fine and then come back to the court and challenge the ticket, and then when you read on to subclause (10)(g)—105G sorry, you see that if you do not pay the ticket then, in fact, a date will be set for the hearing. So, yes, we understand that there are two ways out of this thing. Either you pay the ticket and within the time you appeal the decision or appeal the fact that you pay it, because there is no decision, or the second thing is that you do not pay the fine but you appear on the date given to you in the fixed penalty notice which is the ticket.

So, we are trying to understand that procedure as an appeal for the payment of a fine, that a lot of persons I can tell you will, in fact, take advantage of this. They will pay the ticket and if the time comes, before the time elapses, they will then challenge it on the appeal and, therefore, what we do, we clog back up the Judiciary, the same system you are trying to free up. So we have to say whether or not we are engaging in legislative insanity, because you have to understand, firstly, whether or not your policy is to free up the court system, make COVID charges a little more efficient, but yet you are creating an additional level of bureaucracy. So, Madam Speaker, this is one of the issues I would like to raise and in the committee stage we can probably look at suggesting some amendments to having this in a more palatable manner in terms of how we move forward with respect to this issue of an appeal. Because I know the Member for Port of Spain South also practises criminal law and I do not know if he can point us to anywhere in the criminal law or any law that there is an appeal to a magistrate. That is something that is very strange and very unique.

Now, when you look at subsection (7) on this same exact issue with

respect to the payment of the fine, so you challenge the fact that you paid the ticket, and then the magistrate rules in your favour. When the magistrate rules in your favour, this is assuming, you will be now refunded the money that you paid. Now, there are decisions of the High Court that, in fact, says that this money will attract an interest payment. Now, is the administration of this particular piece of legislation contemplating that decision where, in fact, interest has to be paid on the refund of the ticket? Now, that will create an additional burden to the State, Madam Speaker, through you, to the Attorney General. So this is something you have to really think about in terms of whether or not we want to enforce this, because you will create a lot of administrative bureaucracies when it comes to this and challenges with respect to this particular piece of legislation. That is one of the issues in terms of the appeal.

Now, there is another issue that deals with section 105H, Madam Speaker, of the Bill. Now, this clause is very objectionable, because what it does it gives the Minister of Health far-reaching and wide powers. Now, under the Public Health Ordinance, the Attorney General did, in fact, say how long this legislation was passed, the antiquity of the legislation. So this is a colonial piece of legislation that we are applying in today.

Now, Trinidad and Tobago has progressed in terms of our democracy. The Minister, through these regulations, has been creating offences, Madam Speaker, and these offences that he has created have no Parliament oversight or no Parliament scrutiny. [*Desk thumping*] There are actually no checks and balances in terms of the regulations. Every week you open an email and you will see a new Legal Notice with some new regulations with some new

offences being created, and the Parliament is not getting an opportunity through this Ordinance in order to really give its approval in terms of how or whether or not we approve or disapprove of some of the measures that are being placed by the Government.

Now, we are suggesting, Madam Speaker, that this section that is being inserted in this Bill, 105H, also gives the Minister that far-reaching and wide discretion and power without any Parliament oversight or scrutiny, because this is what the Minister can do. The Minister can add any offence to the Schedule in the regulations. So I am assuming, without seeing the regulations, that there will be some Schedule as part of that regulation that specifies the offence and it will specify the fine that is going to be imposed.

Now, the Minister has the power to fine someone who breaches a COVID regulation up to \$20,000, \$20,000. This, again, is showing you the power being given by the Executive without any check or balance on Executive power being exercised by a Minister. So this is something we have trouble with placing our approval on in terms of the powers being given by a Minister. It is something that we could discuss at length in the committee stage, again, in terms of making something a bit, again, more palatable, so that this regulation can stand constitutional scrutiny also, because I can give you an example.

If the Government gazettes the regulations in the morning, and says well, look, you have to wear a face mask if you go into a public place, assuming a supermarket, then the Minister, by the stroke of a pen, can say well, we can fine this person \$20,000. Now someone in this pandemic who cannot even buy groceries to survive—I know the Member for Laventille

West was buying some groceries for some person recently. He was energized and he was buying some groceries for some needy family, and there are so many needy families in this country, Madam Speaker, who would not have been able to access the grants, the COVID grants in terms of the salary relief, and now you are going to place this additional burden on them and charge them \$20,000? [*Desk thumping*]

So you have to look at whether or not the population can bear this additional burden. Now, we understand the fact that persons have to act responsibly and this can be a deterrent. But what we are suggesting on this side is that there be some level of accountability and Parliament oversight [*Desk thumping*] when you are going to pass draconian legislation such as this, empowering one person in the Executive, who is the Minister of Health, giving him all this power by the stroke of a pen, because the Minister can add any offence. He can prescribe the penalty for that offence and he could also remove the offence.

Now, there is also a bit of inconsistency in the legislation when it comes to the maximum fine. Now, the Attorney General could give us some clarification on this when he winds up, is that the Minister has the power to prescribe fines up to \$20,000, but when you look at clause 3 of the Bill, it creates a maximum fine of \$250,000. So is it that some offences in the regulations will be under the fixed penalty notice where the maximum fine will be \$20,000 and others will now incur something higher than the \$20,000? So that is one point of clarification in terms of the difference, the maximum penalties as prescribed in this particular piece of legislation. So, we are objecting, Madam Speaker, to the fact that the Minister has so much

power and being able to impose such draconian measures on the population.

Now, we have to also look at the time limit being given by the Government for a person to pay a fine, and the time limit is prescribed at 105C at subsection (6) where it reads that:

“The time within which the fixed penalty is payable shall be fourteen days, or such other period as may be prescribed by Rules of Court...”

So, Madam Speaker, you are asking someone to find—if there is an offence that carries a penalty of \$20,000—\$20,000 in 14 days in order to pay this penalty otherwise they will in fact go before a magistrate and there is also a sentence of imprisonment that can be imposed on that person who allegedly would have breached the COVID Regulations.

2.20 p.m.

Now there are other countries in the world who have in fact implemented this fixed penalty system, and one of those countries is the United Kingdom. I know Grenada, St. Kitts, they also have legislation dealing with the mandatory wearing of face masks. With respect to the UK, Ireland, Madam President—Madam Speaker, sorry—North Carolina, California in the United States, these are all countries that in fact have fixed penalties systems for COVID guidelines and COVID regulations, and they have all experienced some level of difficulty when it comes to the enforcement of these particular regulations. That is something that we must learn from their experience. We cannot just come and say this will in fact be the fix for it, this will ensure that persons pay fines, this will ensure that persons comply with the regulations.

You have to look at the experience in terms of how this thing was

administered and enforced. Because there is one particular barrister in the United Kingdom, Pippa I believe, she indicated that the police was in fact abusing their authority under the legislation in terms of issuing tickets, and that most of those matters that were filed in court are actually under review right now to determine whether or not there has been some level of police misbehaviour involved in terms of the enforcement of these regulations.

Madam President, all of these issues, suffice it to say is that we want to ensure that we assist the Government in creating better legislation for the people of Trinidad and Tobago. This is to ensure that at the end of the day we assist in terms of making sure that these fixed penalties work better; that they are administered in a more efficient way; that they are enforced properly so that we can stop the spread of this deadly virus throughout the population. [*Desk thumping*]

So while I may raise issues when it comes to the Bill, this is to ensure that we do not allow this Parliament to become a rubber stamp. [*Desk thumping*] It is to ensure that the Opposition has a voice, a space and a place to assist the population to protect themselves from the deadly virus.

Madam President, there are so many other issues we could when it comes to these particular regulations, and my colleagues will in fact raise most of them. But when it comes to this power being given here to the Minister, I would stop at that point in terms of there are other points to be raised in that circumstance.

Now, I want to go back to the point with respect to the mandatory wearing of face masks and how other jurisdictions would have dealt with it. There is one particular part of the Bill that deals with the standard in which

the police officer has to satisfy himself of, before he enforces the regulations. I see that the Attorney General did in fact in the Bill draft to read—and this is found at section 105A(2), where it says that:

“Where a police officer has reason to believe that he is committing or has committed an offence under section 105...”

I know from other Bills that we have drafted this can be a simple drafting issue in terms of whether or not it should read, “reasons to believe” or whether or not the police reasonably believe, because I do not want it to be interpreted as there is an inconsistent standard in terms of what the magistrate has to satisfy themselves of when it comes to the deliberation of the offence before the court. So that can be cleared up in the drafting part and the committee stage of this Bill, Madam President.

The other parts deal with the exceptions, and I hope that the Attorney General in the winding up—because the population is anxious to hear what are the exceptions and the circumstances for the mandatory wearing of face masks.

These are some of the issues, Madam Speaker, that at this time I would wish to raise, because at the end of the day we want to ensure that we can return to a level of normalcy, so that our economy can in fact become a better place. Because as we said before that COVID really did not destroy the economy, it is really the Government that in fact did that. [*Desk thumping*]

So these are some of the issues, Madam Speaker, at this time I wish to raise. On this side we are going to ensure that this Opposition that we will support good law and good legislation. And in this particular instance we

will try our best to fix this piece of law that has several defects of which I have outlined.

I thank you very much, Madam Speaker.

Madam Speaker: Hon. Members, this is the maiden contribution by the Member for Barataria/San Juan in this House. I must commend him. [*Desk thumping*] I recognize that he does have a little difficulty in reincarnating himself, but I am certain he will appreciate where he is, given a couple more days.

The Member for Fyzabad.

Dr. Lackram Bodoë (Fyzabad): Thank you very much, Madam Speaker, for recognizing me and for the opportunity to contribute on what I believe is a very important and critical piece of legislation, namely an Act to amend the Public Health Ordinance, Ch. 12 No. 4, to make provision for fixed penalties and fixed penalty notices under the Public Health Ordinance, Ch. 12 No. 4.

Before I proceed I just wanted to congratulate all Members on their victory at the recent polls, and to say a special welcome to the new faces joining us here today. [*Desk thumping*] I also would like to thank the constituents of Fyzabad who have shown their faith in allowing me to represent them for a second term in this Parliament, and I expect to do even more for them under the expert guidance and supervision and the leadership of the esteemed Member for Siparia, the hon. Kamla Persad-Bissessar. [*Desk thumping*]

Madam Speaker, we are indeed in very different times. The mere fact that we are standing in this Parliament here wearing masks to make our

contributions, and the fact that earlier our speaking time has been cut, gives us an idea of the severity of the times that we are in.

As we would have mentioned on our side, we have no difficulty in supporting the idea of mandatory masks. In fact, if you look at the situation, there are more than 50 countries and the numbers are climbing where you have had the legislation for the mandatory wearing of masks.

Before I move on, of course, I also want to thank my colleague for his maiden contribution in the House, Member for Barataria/San Juan, [*Desk thumping*] and for raising some very important points, a few I just want to add and to build on.

I am a little bit disappointed in terms of the legislation. It was said that okay we are going to debate mandatory mask wearing today in the Parliament, and therefore I expected that perhaps in his piloting of the Bill the hon. Attorney General would have given some indication of what is intended. But nevertheless, and looking at the creation of the offence with regard to 105, clause 5 which adds 105H, where the offence is to be created for masks, I just want to add a few points with regard to that.

Madam Speaker, again, before I go further I note that the numbers are increasing. We are over 1,600 cases, and unfortunately have risen to 17 deaths. This is a situation which is escalating and therefore it is a cause for concern. So before I go further I just want you to permit me to thank all of the frontline workers who have bravely battled this potentially deadly virus and who continue to do so, despite many challenges that they face in the health sector. [*Desk thumping*] Of course, these are doctors, the nurses, the attendants, the ambulance drivers, the laboratory staff, the administrative

staff, members of the protective services, and those brave men and women who guard our borders.

I think it is also important especially when we are attempting to pass legislation such as this—you know, we can legislate, but as mentioned earlier you cannot always legislate for a change of behaviour. So I think it is very important that we recognize the role that the public has played in all of the scenario since the lockdown in March. I want to commend the members of the public for doing whatever they could have done in the circumstances to protect themselves and their families and the society at large. So I think that is important.

I say this because going forward, regardless of what we do here this afternoon in the Parliament, there will require some level of cooperation from the public, and I think this is very important that we accept and understand this. Because making the wearing of mask mandatory is a sort of nebulous issue. I mean, yes there are things we can define by law, but there will be many nebulous areas. For example, the Attorney General mentioned that a police officer will go to find someone—find, F-I-N-D. The question really is how is the offence going to be committed? Is it that someone walking in the street without a mask is going to be accosted by a police officer, and a fixed penalty? So I think these things need explanation. Or is it that somebody will report that somebody was not wearing a mask, and then a police officer can go to their home to charge them? So I think there is obviously quite a bit of clarification required here.

This whole issue is very ironical because we have reached a place in the world. In my research up to 2013, just a few years ago, there was

legislation passed for people not to wear masks for various reasons, and so on, and now we have reached the point where of course we are passing legislation for people to wear masks mandatory, and I agree with that. The WHO would have issued that edict on the 6th of June, and as was said there are over 50 countries which are now following suit, and the numbers of countries are rapidly increasing. In fact, today as we speak right now, in Paris it is mandatory for them to wear masks in public spaces. Previous to that it was mandatory to wear indoors, if you were in an indoor facility, now as we speak five hours ahead of us in Paris it is now the law that you have to wear masks in a public space.

Very interesting as well, I read about the situation in California in the USA where a public health official had implemented on her own, as part of a regulation similar to what we have here, the Public Health Ordinance. She had implemented by regulation the mandatory wearing of masks, and she encountered a situation where various threats were made to her life, and she had to withdraw the legislation, and then it was left up to the Governor of California to implement that regulation.

So I am just saying that because obviously there is a lot of controversy, but I am also saying that I agree fully. We on this side fully agree that mask wearing should be mandatory and it is very important. But we are just here to ensure that whatever regulations are made are made properly and made to protect those who need to be protected, and that it is fair and equitable.

I would just make a few points. I just wanted to mention a little bit about the issue of home quarantine, because I understand the principle that is

being used here. Instead of specifying masks in the legislation, we are saying that we are changing the law in such a way that if other things become an issue they can be dealt with. I understand that principle. [*Dr. Bodoie coughs*] The issue of home quarantine came up because now the Government by recent change of policy has decided because of numbers and so on that the patients would now be discharged from the step down facilities and they would be quarantined at home under supervision.

Of course that situation needs to be monitored very closely, needs to be policed very closely, because you are looking at a situation where previously these persons—I do not want to call them “patients” because many of them would have been asymptomatic—would have had to remain in a facility for at least 14 days after negative COVID tests done and so on, now that has changed, and I understand why that has changed. I am not saying it is the wrong thing to do, but that has changed. Therefore, again, when the regulations are made it is important for the public to know exactly what is involved, the fines and so on, what would be the conditions for home quarantine and self-quarantine. So I just want to throw that up front. I think it is important for the public, in the public domain. This situation is just maybe about two or three days old. Perhaps the Minister of Health would be able to tell us a bit more about that, but I just throw that out.

But I throw that out also, Madam Speaker, because there are also some other issues that we need to look at and to consider. Because although it is good move, although it will free up the resources for those who are really sick and need the facilities, [*Dr. Bodoie coughs*] it will also present a situation where now many more patients, many more persons may turn up at

facilities for testing. Previously many would have avoided testing simply for the reason that if they tested positive they were bound at that point in time to stay in a facility. So I am just saying that now that might create a situation where there might be an increased demand for testing. Therefore the Government needs to be aware of this and to be prepared to deal with that if that comes along. Of course there would be the issue of the Government's plans of what would be plans to use the step down facilities and so on in terms of resource allocation and reallocation of resources.

I just want to make a few points about the masks. Now the whole issue of face masks, one of the issues of face masks—and I think it is important in debating in the Parliament, and I am sure members of the public are looking on closely at the debate—one of the issues of course has to do with the definition of the mask, whether there is going to be definition of what constitutes a mask. The other issue would be the quality. There are interestingly no legal standards for masks. We are talking about cloth masks as opposed to medical masks. So interestingly there are no legal standards. So I am just throwing that out. [*Dr. Bodoë coughs*]

I just want to make it, in terms of the public health issue of wearing the mask, one of the common things I see with mask wearing is that people have on a mask. I think it is important that it is made clear that the mask should be covering your nose and your mouth. One of the common things I see is that people have on a mask but the mask is down by their chin, and that is worse than not wearing a mask at all. Because what you are doing is you are taking potentially the bugs that can be on your chin, and when you put back on the mask you take it up to your face and your nose. So I think

that is important. So it is important that when the legislation goes out it is made very clear that the mask should be covering your nose and your mouth, that just having a mask on your chin is not sufficient or good enough.

I think the issue of exemptions is very important. For example it needs to be clarified as to whether someone who is exempted would require a doctor's letter for example, or going forward somebody would have to walk with that to be exempted. [*Dr. Bodoë coughs*] The exemption with regard to age is very interesting. Madam Speaker, I assure you this is not a COVID cough. It is because the Chamber has turned a little bit hot and I have on the mask so that triggers allergies.

Madam Speaker: Thank you, Member for Fyzabad, because while you are giving us advice, I do recall one of the things that has been said is that if you show symptoms you stay at home. [*Laughter*]

Dr. L. Bodoë: Thank you, Madam Speaker, and that is why I took front before you stood up.

So the issue of age, the exception for age, and again I throw this out Minister of Health, because if you peruse the legislation for all of the States in the USA, I am just taking the USA, you will find that there are different States—for example, some would say those under two are exempted, those under five are exempted, those under seven are exempted. So again it is something that we should consider going forward.

The other issues that we should look at with regard to exemptions is the issue of the hearing impaired for example. If someone is hearing impaired normally you are looking at the sign language, so we have to make provisions for them. What about the issue of prisoners and wearing of

masks in the prisons. This is something that I saw come up in some of my research and so on. So that is something that perhaps the AG may want to look at, whether those would be a case for an exemption or not, because you have everyone wearing the same uniform in prison, with a mask it might be difficult to know who is missing or is not missing.

Now the fines that the AG outlined with regard to not wearing a mask, increasing first 1,000; second offence, 2,000; third offence, 5,000. The question really becomes now what happens after the third offence, is there a provision for that? I say that because in the UK for example you have a similar system, where the first offence it is 100 pounds but then you go up to a ceiling of 3,200 pounds. So I am presuming that based on the legislation that the \$20,000 might be the upper limit, but again that would need to be clarified for repeating offences.

Of course it was mentioned before, and again I just want to emphasize regarding too the issue of policing this offence when it is created. I think that is a very nebulous area. It is something that needs to be clarified. I am presuming that discussions would have taken place between the Government and the Trinidad and Tobago Police Service with regard to the training of officers and creating awareness amongst police officers, as to what the offence will be and how this ticket is going to be issued.

Of course it is very important if you meet someone on the street, if the officer meets somebody on the street who is not wearing a mask, and you want to ticket that person, how do you identify the person? Is it that people are now going to have to walk with their identification, with their IDs on them? I think that is important to take into consideration.

Madam Speaker, we in principle are here to support the mandatory wearing of masks. We are here to support this legislation. We are just asking that these issues be treated with in a manner that will create transparency, so that everyone knows what they are about. Of course I am trusting that perhaps in the committee stage or perhaps if another Member of the Government contributes that we will get more clarification with regard to these issues.

So as I close my short contribution, I just want to make a call to the citizens of Trinidad and Tobago and implore them to make sure and hand sanitize, to make sure and social distance and please wear your masks. Thank you very much, Madam Speaker.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. As I rise to make my first contribution in this new session of the Parliament, I would like to thank first of all the good people of St. Joseph for reposing their confidence in me for a third term, and in the People's National Movement, [*Desk thumping*] and to thank my Prime Minister for giving me a second stint as Minister of Health. I think I end at 3.01, Madam Speaker. Thank you very much.

Madam Speaker, during the Christmas vacation of last year 2019, I would have started to see popping up in the international news this strange new phenomenon coming out of China about strange x-rays and this new type of pneumonia. At that time we had no name for it. At that we did not know what to expect.

I remember coming out to work on the 2nd of January and meeting with the Chief Medical Officer then, and you know: What is going on here?

Nobody knew at the time. But slowly this thing started to evolve out of Wuhan, China into other areas around the Pacific, and eight months later here we are in the beginning of a global pandemic, because that is where we are now. We are in this for the long haul. There is no magic bullet, there is no vaccine, there is no standardized treatment.

Madam Speaker, the world is fighting an invisible, odourless, colourless enemy, where 100,000 units of that virus could fit in the diameter of a human hair. That is how small it is. Let me repeat that: 100,000 pieces or viral entities can fit on a human hair, on the diameter of a human hair. That is how small it is. [*Interruption*] Not the length, the diameter. If you cut it, the diameter like on a pin head, cross section. So, Madam Speaker, this is what we are faced with.

We are here today to debate a piece of legislation that is going to help us save lives, save the economy, save jobs, make workplaces safer and help with source control. That is what we are here about. The virus can enter our bodies through three main channels in ascending order of importance. The eyes being the least important, the mouth and very often the nose, the nasal passages.

What the world is aiming for right now as far as mask wearing is concerned, we would like 100 per cent. In other words, we would like everybody to be wearing masks, but we know we cannot get there. And all the research suggests that any population that could get up to about 70/80 per cent could be in a very good place as far as deaths are concerned. But wearing masks alone has to be taken in the context of other public health measures such as hand sanitization, the physical distancing, staying home if

you are ill, coughing into the crook of your hand and elbow and so on.

I want to respond to my colleague from Barataria/San Juan, and in the spirit of a new Parliament he—I use the word “chastised”, the hon. Prime Minister because the hon. Prime Minister said something in March, and I said it too at that time about the wearing of masks. What the Member for Barataria/San Juan does not appreciate is that as we get experience with a new, novel virus, what we thought then as said by the CDC, as said by WHO, about the wearing of masks we have to alter our views. It is the same way that the UNC is changed their position on sunshine and the virus. You have changed your position. [*Desk thumping*] So you changed your position that back then the virus was being controlled not because of the Ministry of Health—I remember that video under a tent with rain falling saying it had nothing to do with the Ministry of Health, but it had to do with sunshine, as you know “sunshine kills the virus”. Right? So we have to change our thinking as the thing evolves.

What we did not know then, was the extent of transmissibility. What we know now is that the thing is very transmissible. What we did not know then, was the fact about asymptomatic spread and pre-symptomatic spread, but we know that now. So we must change our protocols and our thinking.

Ms. Ameen: Everybody else knows.

Hon. T. Deyalsingh: The Health and Metrics and Evidence Division states that if we wear masks on a global level we could save about 33,000 lives around the world, 33,000 lives we could save, and that is what we are here about today.

So the evolution of the pandemic from December 2019, where the

strange pneumonia started to show up when we first closed our borders to prevent the virus coming in, to what we know about pre-symptomatic spread, asymptomatic spread, tells us now, with eight months of experience only, that the barrier methods such as masks and shields, together with other public health measures, is the way to go—is the way to go.

The Mayo Clinic—and this is why we have to change our thinking—has said, yes the guidelines are shifting. The CDC had to roll back its original guidelines on mask wearing. WHO had to roll back their original guidelines on mask wearing. We have to be flexible and nimble and cannot be shackled by the thinking of just six months ago, because six months ago we did not know that young people in their 20s and 30s could die of blood clots. We know that now. So mask wearing is important.

Six months ago we did not know that babies would be so badly affected, we know that now. So parents have to wear masks; that is what we are about.

2.50 p.m.

Madam Speaker, the issue of masks goes like this, if I cough—the studies show and everybody knows—the droplets can carry for about nine, 10 feet. As you start to wear different types of masks; single ply, double ply, that distance is cut down significantly. So spread, spread, and the amount of people in that radius that you are in are in fact protected. So the wearing of masks, the time is now, the time is here, but I am not surprised by the giggles coming from opposite. I am really not surprised. Saddened, yes, but not surprised. All the evidence points to the fact that as countries try to open their economy—because no country can shut down forever, the wearing of

mask and the public health measures become important.

Madam Speaker, masks become more important the closer you are to each other. I remember answering a question in this Parliament very early in the pandemic from the hon. Ramona Ramdial, somebody that everybody should listen to these days, asking me about masks, and I did say that close personal contact was defined as being within three to six feet of someone for 15 minutes or more. If you do that, your chances of contracting the coronavirus are higher, because in that 15 minutes you are speaking. The evidence now—and this is why you have to change your thinking and be agile in your thinking—the evidence now as opposed to the evidence then, the evidence then was focusing on large droplets. We were focusing on that. The evidence now, in the past two months, now focuses on small droplets, and what the evidence is saying is that in an environment, especially a closed environment, an air-conditioned environment where you do not have air transfer and air exchange, your chances of contracting COVID with small droplets increases significantly because the small droplets tend to hang in the air as opposed to larger droplets which tend to sink. So the changing has—the evidence has changed and that is why we have to change our stance on the issue of masks, because we have to protect not only against what we knew about large droplets, because we are putting up barriers in our faces, whether it is a shield or a mask, to prevent those droplets from getting into your body orifices, whether it is your eyes, whether it is your nose, whether it is your mouth, and that is what the masks and shields protect against. Also, when we wear these masks in the public domain—

Madam Speaker: Hon. Member for St. Joseph, while I know that you have

been answering something that was said, and I have allowed a certain amount of discussion on masks, not just because it is relevant, but it was alluded to that this piece of legislation is the basis for something else to come, I really would not want to turn this debate into either a mask debate, because the Attorney General is very clear, this piece of legislation is not about masks, so please.

Hon. T. Deyalsingh: Okay, thank you. So I leave that. [*Desk thumping*] So what we are trying to do now is to find the legislative mechanism to introduce the wearing of mask via a fixed penalty system because the prior mechanism did not allow for that. So I am grateful for the opportunity to come to the Parliament as the Minister of Health to support the hon. Attorney General in his efforts to find the legislative fix to make the wearing of masks, the wearing of shields, by a fixed penalty system mandatory in Trinidad and Tobago. It will undoubtedly save lives and help us to adjust to a new normal in a very significant way.

Thank you very much, Madam Speaker. [*Desk thumping*]

Mr. Barry Padarath (*Princes Town*): Thank you, Madam Speaker, for recognizing me, as I wish to contribute to the debate currently before the House.

Madam Speaker, before I go through and go forward with respect to my substantive points on the Bill before us, I too would like to take the opportunity to offer my sincere thanks to the people of Princes Town for reposing their confidence in me, overwhelmingly, by ensuring that I return as their Member of Parliament despite the nasty tricks [*Desk thumping*] perpetrated by those opposite. The people of Princes Town stood resilient,

strong in their support for myself and the United National Congress, and I wish to thank them. I also wish to thank the Member for Siparia for also placing her trust and confidence in returning me as the candidate for the United National Congress in Princes Town.

Madam Speaker, I would like to take the opportunity to congratulate all my colleagues on both sides of the House for being elected, especially the new ones, especially the new faces. As we look around this august Chamber, there is great hope for Trinidad and Tobago as we see many more young persons. In the last Parliament, the Eleventh Parliament, I used to pride myself as the youngest Member. I have now handed over that baton to the Member for Barataria/San Juan and the Member for Chaguanas East. [*Desk thumping*]

Madam Speaker, unlike the Minister of Health, right off the bat I would like to share with you the clauses that we are particularly concerned about, but are not limited to in terms of that concern, and that would be sections 105C(1) and 105A(6) and (7). Madam Speaker, before I make my points with respect to 105C(1), 105A(6) and (7), I would like to spend just a few minutes responding to some of the things that were said by the Minister of Health. Madam Speaker, without any disrespect, clearly when I listened to the Minister of Health it reminded me of a David Rudder's calypso, where it said, "This is not ah fete in here, it is madness". You see, Madam Speaker, for a moment I could not tell, and the Minister himself probably could not tell if he was coming or if he was going. Because this is the same Minister who advised a few months ago that Trinidad and Tobago will not, and I repeat, the Minister said, we will not experience a COVID-19 explosion.

Today, months later, after the horse has already bolted from the stable, we are here cleaning up the mess that was left by this administration. [*Desk thumping*]

Madam Speaker, the hon. Minister of Health spoke about CDC and CARPHA, and I think the country has gotten so accustomed to hearing those terms on a daily basis, that they repeat them before it even comes out of the mouth of the hon. Minister. The point, Madam Speaker, is that while the Minister sought to appropriate blame to the CDC and the WHO in terms of moving from where we were in November of last year to where we are today, we were always told that this virus will be mutating. We were always told that there were different strains of the virus and therefore, the mechanisms that would have to be put in place in terms of addressing the serious concerns, the health challenges, will have to be updated. But, Madam Speaker, from early o'clock the World Health Organization in January indicated that they were in support of mandatory mask wearing. [*Desk thumping*] So for the Minister of Health to come and say that he was listening to what CDC had to say, and what this organization had to say, it was pure hypocrisy because the hon. Minister knew very well that the position of the World Health Organization was strong and resolute since January 2020. [*Desk thumping*]

Madam Speaker, 105C(1) deals with the challenges specifically as it relates to the payment methods. Now, the hon. Attorney General indicated that this really has to do with the fixed penalties, and we understand that. We understand the regulations are yet to come. But, Madam Speaker, when I looked at 105C(1) and I saw the challenges, especially in shared

commonwealth jurisdictions, especially when you look at what occurred in the United Kingdom and what occurred in Australia with respect to their payment methods, there were serious challenges. And the Member for Barataria/San Juan spoke about some of those challenges, in terms of bogging the court system down, in terms of getting persons to go out there to pay the fines, in terms of also making other areas in terms of public offices, in terms of private sector opening up spaces to have these payments be made in a more practical way while observing COVID-19 Regulations.

Madam Speaker, I was driving here earlier today and I saw several government offices, where persons were lined up outside, and there were hundreds—in some instances, people were wearing masks but there was no social distancing, and that could very well be the situation when you take into consideration section 105C(1), which deals with the payment methods. I know the hon. Attorney General, the Member for San Fernando West has spoken about the court pay system and that sort of a thing, but we live in Trinidad and Tobago where we understand that the reality is far different, and separate and apart from what is contained in this section 105C(1), one of the challenges would also be implementation. So it is not just passing the legislation today, going through the clauses, anticipating regulations, but it also has to do with enforcement, and I think that is the part where Trinidad and Tobago is most concerned about.

Because, Madam, with all due respect, when we speak about section 105C(1), and we speak about 105A(6) and (7), we are going to the technical jargon of the Bill. The average man and woman outside there do not understand. They do not understand because the thing about it is that it is left

up to us, their representatives, to put it in simple language so that they are able to follow. I am hoping that if we are keeping with the provisions in 105C(1), that there will be a public awareness campaign. And the thing about it, we just cannot pass the legislation today, still anticipating regulations and there is no public awareness campaign. So therefore, you are legislating, providing fines, hefty fines that it is, without informing the population, and I think that would be a serious challenge. When you look at the way in which the United Kingdom passed their mandatory mask legislation, Madam Speaker, they were very specific from day one. They wanted to know what a face covering is. It was clearly defined. There was no ambiguity in the law. And while the Attorney General may say it will come in the regulations, and I know we are not dealing with the regulations right now, we are dealing with the amendment to the Public Health Ordinance with respect to the fixed penalties, these are some of the things that should have been dealt with in the debate so it goes hand in hand, that there is no room for ambiguity from day one. Because what is going to happen is that you will see over the weekend, Madam Speaker, you would have several commentators on those talk shows, articles in the newspaper speculating and creating confusion in the minds of our citizens.

The UK, as I said, when they identified the method that they will use, as we are identifying in terms of our payments, 105C(1), when they looked at their proposed sections, say, 105A(6) and (7), it says, this section goes a step further than the UK mandatory mask regulations in that it allows for recourse to the court, even when the person opts to pay the fixed penalty within the stipulated 14-day period. This by no means suggests that paying

the ticket is a necessary precondition to challenge the FPN, which are the fixed penalties, which will allow anyone who has not paid to appear before the court and challenge those fixed penalties. So, Madam Speaker, my point is, it must go hand in hand, and that is where the UK, in particular, did in terms of identifying their penalties, the systems for payment, but they also gave from day one in passing their law, when it was that you had to wear a face covering, which was mandatory, what is considered a mandatory face covering, when you do not need to wear face covering, the reason for using face coverings, how to wear face coverings, buying and selling of face coverings, maintaining and disposing of face coverings.

Madam Speaker, one of the things that I would also like for the hon. Attorney General to provide clarity for, is in the United Kingdom, in their legislation, for the exemptions, they will now issue, once you qualify for those exemptions, they will now issue something call an exemption card that you will have on your person, that should an officer try to impose a fine on you, having committed an offence, you are then able to produce and say, "Well, no, I am exempted from it." We need to know what is the process going forward with respect to that because there are different categories of persons in this country who are particularly concerned.

Madam Speaker, when you look at the Australian legislation, especially because they are broken up in provinces in Australia, some of the provinces differ from one to the other. Canberra, in particular, Canberra has looked at between the ages of 10 to 12 years old. Now, the law as it stands is at 12 years old but they are looking at from 10 years old, so they are looking at amending it. A 12-year-old and up will be required to wear a mask. Now,

again, these are the challenges that we face without having the regulations before us. So, these were some of the areas that I wanted to look at in particular.

I know my colleague for the constituency of Fyzabad, in particular, dealt with the issue of the breakdown, and the hon. Attorney General spoke to it with respect to our circumstance here in Trinidad and Tobago and what the Cabinet and the Government is proposing, and there is a tiered system in terms of the first offence, the second offence and the third offence. Now, hon. Attorney General, when you look at some of these commonwealth jurisdictions, Australia in particular, the UK in particular, the fines are quite comparable in terms of what you are proposing. And while that may be good for the first, second and third offences as it relates to what we have seen in the other jurisdictions and what you are proposing here, again, we would like to have some clarity as you wind up, in terms of whether or not there will be disparity. And you did indicate that there will be some disparity in terms of a magistrate imposing these fines and fixed penalties.

Madam Speaker, one other point before I wrap up is the issue of, again, section 105C(1) which deals with the payment methods. And what we have also seen in other commonwealth jurisdictions, in particular Australia, is that employers themselves have had penalties imposed on them, that if you go into a private sector workplace, and they are discouraging their employees from wearing these face masks, because it is not in the definition section of a public space, not meaning a public or government office, and they have the jurisdiction over their private offices, that employers too can be imposed with these fixed penalties. So, Madam Speaker, I think this

legislation being brought here today, while the intention may be good in some ways, there are a lot more questions than answers, and this has become a characteristic of this particular administration in that we tend to rush the legislation, and then what happens is that two or three days later they realize they forgot this, they forgot that, they did not address this, they did not address that, and hurriedly we come back with a miscellaneous provisions Bill. [*Desk thumping*]

Madam Speaker, in the last Parliament the most amount of Bills this administration probably passed were miscellaneous provisions Bills. [*Desk thumping*] And one of the rationales that was provided by the AG at that time was that, you know, we wanted to get things done quickly and so on, and while that may be a good thing, the thing about it at this point in time you have now started the Twelfth Parliament, you will have five sessions, should you hold on in the five years, which we doubt very much, the rate that you are going from day one. But, Madam Speaker, I am saying to the Government today, pace yourself so that the population understands where you want to take them to, they understand what are the challenges that we are facing, because you were the very ones who told them that you were number one according to Oxford University not knowing that that was the greatest hoax that you ever perpetrated on the people of Trinidad and Tobago in a global pandemic. [*Desk thumping*] Today, Madam Speaker, when the real evidence comes out Trinidad and Tobago is ranked at 163, and that is the continued deception of this Government. [*Desk thumping*] And that is why while we want to support good measures that would bring about relief and put our citizens in a safe space, Madam Speaker, we have learnt

from the past that we cannot trust this Government, and therefore, that is why we would like our questions to be answered, but also we would like to know in terms of when we can expect the regulations. So with those words, Madam Speaker, I thank you. [*Desk thumping*]

Madam Speaker: Member for Mayaro.

Mr. Rushton Paray (*Mayaro*): Thank you very much. Thank you very much, Madam Speaker. Thank you very much AG. Madam Speaker, thank you very much for acknowledging me to join this debate today as we look at an Act to amend the Public Health Ordinance, Ch. 12 No. 04, to make provision for fixed penalties and fixed penalty notices for offences under the Public Health Ordinance.

Madam Speaker, before I get into my very short contribution today, I also would like to offer my congratulations to all my colleagues here on both sides and welcome everybody to the Twelfth Parliament of Trinidad and Tobago. And, Madam Speaker, I also welcome you back to the Chair as well. Madam Speaker, the Attorney General presented a very important piece of legislation here today and by all account from all my colleagues who have spoken before, there is widespread support for very important pieces of legislation, especially this one, in terms of controlling this pandemic that has been affecting the entire world, and so far it has been getting worse here in Trinidad and Tobago. I want to just present a position that, how did we get here? It is a bit fascinating and somewhat disturbing at times, Madam Speaker, that this very same Government said that COVID-19, sometime back in February, as alluded to by my colleague from Princes Town, that it would not be a threat to Trinidad and Tobago, and we are here

today to introduce some far-reaching and I would say some historic legislation to make this mask wearing mandatory, and we are bringing components of the Public Health Ordinance to make that happen.

Madam Speaker, it was the very same Minister of Health who was on television, who said that the chances of Trinidad and Tobago getting these infections were remote to non-existent, and he added that if you are going to get it, it is going to be in individual cases. If we get it. Madam Speaker, over successive weeks, the very same Minister continued, in my respectful view, to underplay the growing international pandemic and as a result, would have failed to prepare this country for the eventual rate of the infections that we are seeing today. Madam Speaker, the fact is that Trinidad and Tobago has descended from a seemingly safe position in February to what we have now, seeing widespread community infections. I see we had two additional deaths today. We have had several business closures, and as we are here today in this Parliament to bring regulations to look at mandatory mask wearing and penalties for not doing so. And one can only assume, Madam Speaker, it is because of, I would say, gross ineptitude in the management of this medical issue and the deliberate downplaying of the problem for short-term gains by this administration. [*Desk thumping*] Madam Speaker—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6), please.

Madam Speaker: Member for Mayaro, I would allow you to proceed but just be careful.

Mr. R. Paray: Sure. Thank you very much, Madam Speaker. Madam Speaker, against this backdrop, the legislation to penalize our citizens for not wearing masks—we got to this point today because I feel that there is a lack

of credibility that the Government has not been able to encourage citizens to act on their own to wear masks. And the response that I have been getting from my constituents is that sometimes they do not believe what is being said on the television, the communication has been poor, and because of that the citizens have not taken it upon themselves to see the benefit of wearing the masks, and we have gotten to the point today that we have to come and bring legislation to force our citizens now to wear these masks for their own good.

Of critical relevance, Madam Speaker, I think this credibility gap, they have not been able to persuade, persuade our citizens that it is important that we take this most effective action without having to legislate behaviour. And I have always had a problem when we, as a Parliament, try to legislate behaviour. Madam Speaker, any Government that has convinced its electorate that it has the moral standing to give instructions for the benefit and the good of the people, I do not think if this Government was successful at doing that, we may not have to be here trying to legislate behaviours. [*Desk thumping*] Madam Speaker, in my research, I have counted over 50 jurisdictions that have overcome the worse of this crisis without introducing legislation that gives punitive consequences like wearing masks. So those jurisdictions, those countries, they would have had a successful campaign in terms of convincing the public on their behaviour and how not to end up in the position that we in Trinidad and Tobago find ourselves in today.

Madam Speaker, one of the things that I saw that happened in England was that the English Government, they introduced this mandatory mask law sometime in mid-July, and they ran into opposition from both their

medical fraternity and their law enforcement officials as well. And clearly, in those jurisdictions, those two groups, they are not their political opposition, but senior officials from the Centre for Disease and Prevention Control and the Metropolitan Police Federation, they both separately warned the Government that the law was unenforceable in England. A lady by the name of Dr. Agoritsa Baka, who is a chief expert at the centre, said persuasion would have been more effective than bringing this mandatory law. Ken Marsh who is the head of their police federation also said that enforcing the law would be almost impossible. Dr. Baka closed her contribution, Madam Speaker, when she said, and if I can quote her:

“In public health we do not like much the mandatory stuff. We want to persuade people to do something to change their behaviour.”

So, Madam Speaker, when you make something mandatory, you need to have a way to enforce it, which is what we are doing here today. And if we are unsuccessful with this piece of legislation, clearly we are going to be ridiculed by the public and we will not have the outcome that we would like to have based on this legislation. And those were the expert words of both their medical fraternity and their legal fraternity.

3.20 p.m.

Madam Speaker, I must admit that the Government has advised the public on the essential need to wear the mask and all the relevant medical precautions that must be taken, but the fact is, that we are here again shows the failure of that campaign. I would like to make a couple suggestions, Madam Speaker, that not only should the Government look at making this mask law compulsory, but the Government must redouble its public

awareness campaign on mask wearing. I think, although we put the legislation here today, the public awareness must increase. They must also speak about the importance of the physical distancing, the respiratory etiquette, hand hygiene, and obviously, not touching your face, your nose, and your mouth and so on.

So besides the legislation, I think the failure of the campaign in the past we are looking to save lives in this country, Madam Speaker. So I am asking the Government to get out there and re-enforce and reenergize its public awareness campaign. If the initial education crusade was not successful, common sense would dictate that the campaign be remodelled and improved.

Madam Speaker, citizens must also be assured that while wearing the mask may be uncomfortable, for most people there are no medical side effects and a lot more benefits at the end of the day. So a bit of the discomfort—I know I myself have a bit of discomfort being a glasses wearer, a spectacle wearer. I get fogged out at times and that causes a bit of problems, more so when you are out in the public, and that may cause people to get a bit of discomfort. Again, the public awareness is important so we encourage more citizens to continue using the mask.

Madam Speaker, if you just allow me to mention one or two exemptions that I would like the Attorney General to consider in his wind-up. Again, we all did a bit of research in terms of preparing for this Bill, and in several jurisdictions I highlighted a few areas that are important that we look at for exemptions: children younger than two years old, anyone who has trouble breathing, anyone who would need assistance in terms of who

are wheelchair bound, and so on. Madam Speaker, there is an article that I encountered published on the 10th of July, 2020, entitled “Mask Exemptions During the COVID-19 Pandemic—A New Frontier for Clinicians”. The author is Dr. Mical Raz and he had to say and I quote him:

“Some individuals, particularly children, with sensory processing disorders may be unable to tolerate masks. Facial deformities that are incompatible with masking are an additional category of exemption”—to consider.

The CDC as well, Madam Speaker, they too said that people with intellectual and developmental disabilities, mental health conditions and other sensory sensitivities such as autism spectrum disorder, wearing mask could create some distress. So nowhere in the Bill, and perhaps it may come later in terms of exemptions, I would be very much interested to see what the exemptions are because I believe we must have some exemptions to the rule in this particular case.

Madam Speaker, overall the legislation appears to me, from listening to my colleagues who have spoken before, it is not well thought out and it should be reconsidered a bit in terms of some amendments. The provisions are not in line with most countries that are battling COVID-19. I do not think that the Government has the ability to right a wrong in its governance by punitive measures against a society that is already suffering from a lot of medical setbacks, job losses, business closures and so on.

Madam Speaker, just two questions on the Bill itself that I would like to ask before wrapping up. Attorney General, under 3 where you are changing the ceiling from 50,000 to 250,000 if you can give me an example

in your wind-up as to what type of violation would attract a fine or a ticketable fine at \$250,000. I would be interested in finding out what type of violation would attract that. I turn to 105B, “Particulars to be specified in a fixed penalty notice”. I am looking at (a), (b), (c), (d), (e) and (f) as to what is the police officer going to put on this fixed penalty notice. And perhaps—I have never received a driving ticket either, Madam Speaker, so I do not know what the ticket looks like, but nowhere in here I am seeing the person’s name.

Where do you insert the person’s name who is getting the ticket? And I think the Member for Fyzabad alluded to that. If the officer stops somebody on the road because they are not wearing the mask and you ask him your name and he said, “Well my name is Rushton Paray”, how do you verify that if he does not have ID? What name are you going to put on the ticket for him to go and pay? So I know there is a—you know the police can take you to the station and verify your ID and so on, but that in itself is some administrative overhead. So perhaps if a little explanation as to how you would be able to properly identify this person receiving the fixed penalty notice without having them have an ID on them, I will be interested to find out that.

So, Madam Speaker, those were a few of the areas that I had some concerns with, and some clarity by the Attorney General would be welcome. And before I wrap up, I just want to thank the constituents of Mayaro who through their overwhelming support again behind me for a second term; I would like to thank the honourable political leader, the Member for Siparia, for putting her trust and faith in me for a second time [*Desk thumping*] to

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bring the constituency of Mayaro back to the United National Congress; and I want to wish all my colleagues on both sides a very successful term in this upcoming parliamentary term. Thank you very much, Madam Speaker. [*Desk thumping*]

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, first of all I would like to take the opportunity to thank all the constituents in Port of Spain North/St. Ann's West who saw it fit to return me to this august hall to continue making the contributions on their behalf, also to the People's National Movement for selecting me as their candidate for Port of Spain North/St. Ann's West. [*Desk thumping*] Madam Speaker, I have to start by saying that I had hoped that this term in Parliament would be somewhat different, and that we would all come here with renewed responsibility and renewed thought patterns that we would do what is best for Trinidad and Tobago.

I start by saying that, in my respectful view, I do not think that the issue of COVID and how we deal with COVID as a country should be politicized in the manner that I have heard it here today. [*Desk thumping*] I would like to say that with respect to COVID [*Crosstalk*] if it has not been learnt as yet by those on the other side—

[Madam Speaker stands and nods in the direction of Member making contribution]

Hon. S. Young: Thank you very much. I would like to say that if it has not been learnt by some in this Chamber as yet, COVID does not care about your race, about creed, your religion, how much money you do or you do not

have, where you have come from, what sex you are, your age, or anything like that. That point seems to be missed. And another point that I would like to make, Madam Speaker, is this issue of COVID, this pandemic, this virus, is only eight months old. So I have sat here and I have heard persons say that this was said in February, and masks were advised, that you should not use masks in February, and now here we are trying to make mandatory that you wear a mask.

The world experts that we were all following at the onset of this pandemic globally, the WHO I recalled very, very clearly, early in the life of this virus, the WHO and other persons, other international experts, were saying they did not think the use of masks was going to help prevent the spread of this virus. However, this Government, this responsible Government, from day one, took the advice of our local head of experts, and I would like to use the opportunity to thank them again for their tireless effort [*Desk thumping*]: the Chief Medical Officer, Dr. Hinds, Dr. Michelle Trotman, the Minister of Health and his whole team. Whenever we sat and we met on a weekly basis we listened carefully to the advice. And to their credit, the Trinidad and Tobago public servant experts, the health experts, said very early o'clock to the Minister of Health, the Prime Minister and myself, the use of masks would help in the fight against COVID. And that was taking place in March when we came out and we took the decisions that we did, and we implemented the stay-at-home orders and the recommendations.

I have heard the Member for Mayaro talk about persuasion. We went through the stage of persuasion. We are not here today looking to introduce

a fixed penalty system because we have not tried the persuasive attempts, the attempts to persuade the population to do what is right. I sat here and I listened to some of the contributions and I thought of the irony and a little bit of hypocrisy, because the health experts were telling us from day one wear your mask. We in this House were mandated to wear masks at all times very early o'clock, to spread out, have the social distance. We have gone the route of persuasion. We have tried the persuasion. We kept saying that we would continue. We kept asking the health experts, go out there and tell the population the importance of wearing masks, how that can save lives, how it may stop the spread of the virus. And the hypocrisy that I referred to and the irony is some of the types of behaviour that we the population witnessed.

Not too long ago before August 10th, certain persons who aspire for leadership in this country, never been photographed with a mask on in massive crowds and gatherings, and to have the audacity to come here today and to attack an attempt by a responsible Government. And I want to put on record, put it on the *Hansard*, that we are here today pursuing the mandatory wearing of masks—and I will get to the fixed penalty system in a short while—because the health experts have asked us for it. The health experts have asked the Minister of Health, the Prime Minister, Minister of National Security, and the Attorney General, please make it mandatory for persons to wear masks. [*Interruption*] You should wear a muzzle not a mask. Right? So that is why we are here today. We are not here today because we woke up in the morning—

Mr. Lee: Madam Speaker, 48(4), please. The crosstalk the Member is—

Hon. S. Young: What crosstalk? I am talking. I am on my legs—

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Madam Speaker: Okay. So can we resume?

Hon. S. Young: Thank you very much, Madam Speaker. [*Desk thumping*] You know it is somewhat offensive to stand here making a contribution and to have a Member on the other side pulling down the mask, the same thing we are talking about, the benefit of wearing a mask, medical science saying wearing a mask—here it goes.

Mr. Charles: Standing Order 48(4). I take objection to that.

Hon. S. Young: I take objection to your presence.

Madam Speaker: Okay. All right. So Member for Port of Spain North/St. Ann's West, just withdraw that last statement please.

Hon. S. Young: I withdraw.

Madam Speaker: Thank you. Member for Naparima, I do not see any merit in your objection on Standing Order 48(4). Please continue.

Hon. S. Young: Thank you very much. So, Madam Speaker, the health experts are the ones who have tried the persuasion. The health experts are the ones who have led the charge asking the population to mask up, and we have reached this stage because it is the final pillar. We have only come here today to introduce this system because there is a recognition that despite the health experts, the public servants, asking persons to wear masks whilst in public, not only to protect themselves, but potentially to protect other persons who may be around them, there was a certain laxity, there were persons not adhering to it.

So the Attorney General has drafted and brought the legislation to give the power to be able to have fixed penalty notices. Because we discussed it as responsible people do, and we spoke about if we go by a

normal charge what you could do is clog up the court system, what you could do is clog up the police stations. The last thing I want as the Minister of National Security is these persons who are breaching the regulations to be sent to prison because protecting the prison itself is an issue. So we came up with the fixed penalty system. I heard the Member for Barataria/San Juan asking about this system and talking about an appeal to the magistrate, and despite him looking at the legislation he could find nowhere where this type of legislation is implemented.

It was debated not too long ago. It was debated this year when we made the changes to the Motor Vehicles and Road Traffic Act, and put in place a fixed penalty system for offences under the Motor Vehicles and Road Traffic Act. It is also there for the dangerous drugs offences, the same types of provisions. Right? So to come here on a maiden contribution and attempt to mislead the public and the population, I assume it was because he was not aware, he could not recall what had happened on a motor vehicle—

Mr. Hosein: Madam Speaker, 48(6), imputing improper motives. I did not mislead the population.

Madam Speaker: Member for Port of Spain North/St. Ann's West, if you could just rephrase that and please proceed.

Hon. S. Young: To suggest to the population, through this House, that the legislation that is currently being debated exists nowhere in the law books of Trinidad and Tobago is certainly false, are not so, because it is there in the legislation. [*Desk thumping*]

So going back to the position in February, we took the precaution through our public health experts and the Minister of Health early in March

to try and persuade the population, you needed to wear a mask. We are here today to introduce a system that is a fixed penalty system because it is the best way to enforce what the public health experts are asking us to enforce, which is mandatory wearing of mask. So what it is envisaged is that the police when they see persons who are not wearing masks will issue them with a fixed penalty notice, a ticket, and they would pay that ticket.

We have had discussion as to the amount of the fine and I will leave the Attorney General to touch on that. I believe he has already has. It is \$1,000 in the first instance, \$2,000, and then \$3,000 thereafter. This Government did not want to have to go this route and it is important that we put that on the *Hansard*. We are forced to go this route to help persons on the advice of our medical experts to protect the population against the spread. We have been seeing the spread, the trajectory, going upwards. I am somewhat happy but cautious that over the last couple days the numbers seemed to have reach a certain, I would not say downward, but a flattened phase. And what we want—and you hear the chuckling from the Member for Siparia. That is how they want to deal with the population, whereas we here are concerned, is a laughing matter.

So, Madam Speaker, I just wanted to add and to contribute, to remind the population this virus is eight months old. It is a learning curve. I heard all of the reference to the United Kingdom. I smiled. All of the reference to United Kingdom, what is going on in the United Kingdom. Lest the population forget, United Kingdom took off and was one of the worst places in how they handled COVID in the whole of Europe. Fortunately, we did not take the advice of those outside. Fortunately here we did not listen to

sunshine kills COVID. We did what needed to be—what was that?

Mr. Deyalsingh: Puncheon and lime.

Hon. S. Young: Puncheon and lime kills COVID. It does kill it. We will continue to be responsible, we will continue to listen to our health experts. This legislation is necessary legislation and we will apply it responsibly.

This is a plea to the population that when we make the mask wearing mandatory, understand that we do not want the police service to have to be in a position where they are issuing tickets to everyone. But it has reached that stage of seriousness that if people are not listening and they are not taking the persuasive advice of our medical experts, this is the step that we need to take. So I commend it. I say it is necessary at this stage and we will continue to implement, in the responsible manner that we have, all of the regulations. Because you see, let the population not forget that those on the other side, and those associated with those on the other side, have now sued the State over 20 times challenging these regulations and lost on every count.

So let the population understand that whilst the Government is doing all that it can to keep them safe, there are those on the other side who are continuously challenging it and losing, and I hope that the Attorney General pursues wasted cost orders against those attorneys on the other side. Madam Speaker, with those few words I commend the legislation and I thank you.

[Desk thumping]

Mr. Dinesh Rambally (*Chaguanas West*): *[Desk thumping]* Thank you, Madam Speaker, for this opportunity to contribute in this debate, and I want to start off by first of all thanking the Member of Siparia, political leader of

the party to which I belong, for the opportunity to be able to sit in this august House and I would like to thank the thousands of persons in Chaguanas West who have made it a reality for me to represent them. [*Desk thumping*]

Madam Speaker, it is important that I contribute to the debate today because in the past two to three days I have been in abated with messages, phone calls, text messages, a lot of social media communications, about this COVID pandemic. And in particular there is an area of Felicity in which there are a lot of cases and it seems as though what we are now referring to as the home quarantining is not actually working; but I will return to that if necessary, Madam Speaker, but it is important to contribute. And I would like to say that on this side we are very clear about our position on this law and any other law which may have to be brought to the Parliament, and that is we will support good law, we will support [*Desk thumping*] proper measures to combat the COVID-19 pandemic, and that is our position. So that we are not being obstructionist, our intention is to support good law.

Now, since the 11th or the 12th of August we have been hearing in the public domain that we are going to have law to deal with mandatory wearing of masks, and that is what we have been flooded with in the public domain. What we have and what we thought we would have before the House is really legislation that would deal with wearing of masks and that is important, and what we do not have here today in this proposed Bill is anything, nothing at all provision wise dealing with the wearing of masks. So I have to ask, where the provisions dealing with the mandatory wearing of masks? That is number one. Now I say that because it seems to me my colleague, Member of Parliament for Barataria/San Juan, he said we cannot

legislate insanity and I want to add to that. We necessarily—we do not legislate in the dark. And there is a nice common parlance we say, “Don’t put the cart before the horse”, and it seems to be that that is what we are doing here today.

I just want to be, and no disrespect meant to anybody, but a little bit anecdotal in that in the height of this pandemic there is a horse race called the Belmont Stakes, Madam Speaker, and this was held about two months ago, and in that there was a horse that actually won the Belmont Stakes. The name of that horse is Tiz the Law. Well I want to say that putting the cart before the horse today we do not want to have “tiz bad law” being dubbed on this legislation that we are dealing with. And I say that anecdotal, no disrespect meant to the Member of Parliament for San Fernando West, hon. Attorney General, for piloting this Bill.

Now, when we have to look at the law one of the things we have to be careful with is that in the proposed Bill and particularly at clause 4—my colleagues before on this side have already dealt with a lot of the matters and concerns, but I want to return to the subsection (6). So this would stand as 105A(6) to be found at clause 4. And what it says, Madam Speaker, is that:

“...a person who pays a fixed penalty before the expiration of time”—
so anybody who does that—“specified for the payment thereof may,
in the prescribed form appeal to the Magistrate...”

Now I want to say that when my friend, my colleague for Barataria/San Juan, had in his contribution referred to the fact that we did not see some of these things in the law, it is true we have not seen provisions like this in any legislation locally. [*Desk thumping*] The only piece of legislation that I

know of that when they levy something against you or they sanction you is under the customs law, where if for some reason the duties they ask you to pay is a certain amount you pay it and then you appeal, but that is a commercial basis. You do not want to be saddled with charges. [*Desk thumping*] But in terms of laws where we are dealing with individual rights I have not come across any law, and that is what my friend was referring to very simply. Point us to where locally, regionally [*Desk thumping*] and I have not seen this in the Commonwealth either. There is something that exists in Australia but this is not it. So when my friend was speaking about that he was very clear. So it is nothing about hypocrisy here. It is about being careful with good law. [*Desk thumping*]

Now when we look at the appeal to the magistrate, the concerns that we have is that in our law we have a constitutional right that you are innocent until proven guilty. We tend to call that, Madam Speaker, the presumption of innocence. That is a constitutionally enshrined right that everyone has. When you are made to pay, or may I say enticed to pay that fine upfront, you are deemed at that point in time to have committed the offence. So if it is you are telling someone, the members of the public, they are saying, “Look, this is an easy goal you know. Pay the moneys upfront and you will be entitled to an appeal.” So what you are telling people here is that if you pay only then you will be able to appeal, and therefore, you are purchasing your right to presumption of innocence. [*Desk thumping*] That is the effect of this.

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6), please.

Mr. D. Rambally: Milady, it is tantamount to telling somebody you must

now purchase your presumption of innocence. That is the point I am making.

So when we go back again to this particular clause, we must remember that the person who is setting this fine is not the magistrate, it is the police officer. And when the police officer sets this fine, the question is when we look at the corroborating 105B(d), the amount of the penalty to be fixed is the police officer as well. I heard the colleague for San Fernando West say that you will have 1,000, then a second offence 2,000, and a third offence 5,000. One of the factual questions that arises is in reality how does the police officer know what offence are you at? Is this a first time offence? Are you going to ask this person, "Boy you did not wear your mask today so ah feel you is a stubborn fella. You are a harden man. Ah feel you did not wear it before. Tell me something, were you charged for this before?" How do you know? So I am not being facetious, Madam Speaker, but these are realities that you are giving power to police officers to do certain things when there may not be infrastructure for them to perform their actions, to perform their jobs, and the result of that is that you can have a law, a police state, which is encroaching on people's right. So that is another aspect of this that we have to look at.

Now, what we would like to know is what is the difference between 105A(6) where if you pay the fine within the specified period that you are entitled to appeal to a magistrate? And as my colleague for Barataria/San Juan has already said, we have not come across this before. Therefore, what is the difference in appealing to a magistrate as opposed to not paying the fine, and therefore, going through the Summary Courts Act processes. What

is the difference? I do not know if my colleague for Port of Spain South might be able to assist us with that. But the question is, what attraction, what benefit, exists for a potential defendant if it is they pay the moneys upfront and only then they purchase their presumption of innocence as opposed to you hold your presumption innocence, you go through the Summary Courts Act and then you are found to be either innocent or guilty? And this is the point that Members before me were making that do you want to really clog the court system with having parallel avenues of determining your guilt or innocence, or do you wish to simply avail the Summary Courts Act? And this is where we have not seen this aspect of the law in any legislation locally or regionally. [*Desk thumping*]

3.50 p.m.

Now, Madam Speaker, having said that, there is one aspect I would like to touch on and I do not wish to give the impression, Madam Speaker, that I am going to debate principles of law. But when you have at 105A(6) that a person may appeal having paid the fine, the question is: Are you encroaching on that person's presumption of innocence, that constitutional right? And I respectfully say yes. Once you are touching these longstanding rights, you are somehow interfering with it. Then you get into the realm of whether or not their constitutional rights are somehow being infringed and if I want to use a lighter term than infringe, if it is to be affected one way or the other.

And I know that the hon. Attorney General, Member for San Fernando West, is very aware of this. The question is whether you are pursuing a legitimate aim and that has different limbs that have to be

satisfied. First, the Bill that you are proposing here, is it that the law is sufficiently important, the purpose of the Bill is sufficiently important to warrant encroaching on that right? That is number one. Your constitutional right to your presumption of innocence. Second, we must be satisfied that the means, this fixed penalty notice that you have chosen is not only reasonable but it is demonstrably justified. You have to show that. So this is all caught up in something called the proportionality test.

The question I want to place openly, Madam Speaker, is: How do you determine that something is proportional or it is in pursuance of a legitimate aim if you do not even know what the regulations are that are still yet to come? [*Desk thumping*] You cannot tell that we are pursuing a legitimate aim at this point because we have not seen what we should have seen in the first place. Right, those regulations. Madam Speaker, I sure wished we would have not curtailed the speaking time. [*Desk thumping*]

Now, it is regrettable for me personally that the Member for Port of Spain North/St. Ann's West is not here in the Chamber.

Mr. Young: I am right here.

Mr. D. Rambally: But what I want to say is very simple, Madam Speaker, through you. I know he said you must do what is best in the interest of Trinidad and Tobago and we on this side, that is exactly what the Opposition's role is. So I recall Member for San Fernando West, hon. Attorney General, when he piloted this particular Bill, saying that he welcomes our comments, our remarks on this side and that is exactly what we are doing. [*Desk thumping*] So the fact that we have some opposing views or we have some concerns, it does not mean that we are politicizing

COVID-19. [*Desk thumping*]

And I want to say it is either we as an Opposition, we collectively as this House, the Members of the Cabinet or Government, as a country, do we subscribe to the rule of law? Because if you subscribe to the rule of law, it is very simple. You have to have what is referred to as certain law. For any law to be proper law, to have the quality of law, it must not be vague, it must not be uncertain, and this is why we are saying that we should have had those regulations today. [*Desk thumping*]

If it is that the position of the Government is that we are done, according to my colleague on the other side that is fine, you know. If you want to take a position that we are done with persuasion and now it is to apply the letter of the law, the public ought to have known that through knowing exactly what the regulations are going to bring in terms of sanctions.

So what we have to bear in mind, Madam Speaker, is that we are dealing with something very sensitive, we are dealing with something very critical, we are dealing with something which, in our view on this side, it is not a political issue for the Opposition. COVID-19, and we agree, it does not respect anyone and if it is we want to deal with COVID-19, we need to look at it in a holistic way. Hon. Member for St. Joseph, ignorance might be bliss but “you see when yuh dealing with this pandemic, is either you were lacking the knowledge”; as you professed today we did not know certain things at one point in time [*Desk thumping*] but subsequently came into that knowledge or you were downright reckless. [*Desk thumping*]

There are numerous public statements which point to the fact that one

day, you do not need to wear a mask, the next day, “take ah old T-shirt and tie it around yuh face and make ah mask”. One day, we will not have any spike in COVID-19 cases. Right, that is one day. “But ah next day, just shortly thereafter, we have community spread, none the likes before. One thing this side has said from day one which nobody, whether locally, regionally or internationally, can fault us for was that from the very beginning, Member for Siparia was saying “ramp up testing”. [*Desk thumping*] Had you ramped up testing from day one, you could never have had a situation arising where in the lockdown: “Oh, we have this COVID-19 pandemic under control, not a single case has been reported” but just mere days after, you have 100, 200, 300, now it is “over ah thousand” and over 15 deaths now.

So, Madam Speaker, I do not wish to be repetitive but I would say in closing that we support good law, we support any necessary measures to combat COVID-19 and the concerns that I have raised, I trust that my friends on the other side will understand that we are not being obstructionists, we are trying to arrive at that point where we can have good law. My learned colleague for Baratania/San Juan has proposed and he referred to this in his contribution, some amendments and I would fully endorse those amendments. I hope that when we get into the committee stage, it will be taken on board and carefully considered.

Madam Speaker, I thank you for this opportunity. [*Desk thumping*]
Madam Speaker: Members, again, this is a maiden contribution by the Member for Chaguanas West. I want to congratulate him and commend him. [*Desk thumping*] Attorney General.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. I wish to thank all hon. Members for their contributions this afternoon, as we deal with a very important matter before us which is an amendment to the Public Health Ordinance to introduce a fixed penalty system for a wide range of matters which will include, for instance mask wearing. This, Madam Speaker, is not the law which introduces the framework for how one wears a mask, where one wears a mask, what the penalty for wearing or not wearing a mask is, what the exceptions for mask wearing look like. This is not that law.

Madam Speaker, I start by saying that because I was somewhat astounded by the contribution coming from Barataria/San Juan because Barataria/San Juan who led off the contributions on behalf of the Opposition Bench, effectively made a submission that the Government should have come better prepared. The hon. Member said that the Opposition deserves respect. We should provide draft regulations. He came surprised. The Government has not done its job, he expected more competency. The hon. Member then went to make some submissions in law and some of that were echoed by my learned friend, the Member for Chaguanas West who I welcome to the Chamber and congratulate on his maiden contribution for the first time in a Parliament.

But I would say, Madam Speaker, when we look to the essential submissions coming from hon. Members opposite, you can crystalize them into six points. One, we have heard a treaty is unconstitutional law, that the law must be proportionate, that we are somehow coming into some dangerous zone. The concept of purchasing right was put into a position here and the concept of purchasing one's right to innocence quite astoundingly

and I will come to that.

The second point made in summary is effectively that there is no parity of this law with any other law. My friend for Chaguanas West went so far as to say nowhere in the Commonwealth, the hon. Member said. Not only locally eh, he said regionally and nowhere in the Commonwealth is there a comparable provision with 105A(6).

The third point that hon. Members made is really to be subsumed in the parity of law principle. It is that the concept of reason to believe as raised by the Member for Barataria/San Juan and that is in reference to section 105A(2) where the hon. Member again said that he could find no precedent, thought of it as term of drafting language to the construct of language used by us in 105A(2), the hon. Member said that it was not crafted right in terms of what we usually do. So I will put that into point number two. Point number three raised by Barataria/San Juan is that there is an inconsistency between the \$250,000 fine which is put into effect by clause 3 along with the six months and that fine which appears at 105H which is the \$20,000 fine.

The fourth point that hon. Members made was in relation to an alleged creation of bureaucracy in the system for payments. The fifth point is associated with that in terms of clogging of system, and the sixth point is the respect to see the regulations in the Parliament. So let us deal with these things in the broad context across hon. Members' submissions.

Madam Speaker, let us deal with the easy ones first. With respect to the parity of law concept, hon. Members have said quite vehemently that they can find no precedent for the form of appeal as is set out in proposed section 105A(6) and let me read this. It says and it is in the Bill:

“Notwithstanding any provisions of this Act or any written law to the contrary, a person who pays for a fixed penalty before the expiration of time specified for the payment thereof may, in the prescribed form, appeal to the Magistrate in the district in which he paid the fixed penalty in respect of the offence for which he was charged.”

Permit me to allay the concerns of my learned colleagues who apparently are not aware that the laws of Trinidad and Tobago are online. They are at the Ministry of the Attorney General’s website, nor does my friend from Barataria/San Juan or anybody who has spoken, who has had access to the Internet, let alone, actually we are in the Parliament, remember that we in fact dealt with the exact formulation of law in exact words. And for the benefit of Barataria/San Juan who sat in the Senate, I will remind on the 13th of December, 2019, we passed the Dangerous Drugs amendment. I remind Senior Counsel sitting, the hon. Member for Siparia, who leads this Bench and is senior to all lawyers in this bench because the hon. Member is Senior Counsel who sat in the House on the 11th of December, 2019, and again on the 13th of December, 2019.

Madam Speaker, permit me to put onto the record now from Act No. 24 of 2019 which is the inclusion of a new section 5B to the Dangerous Drugs (Amdt.) Act as it has now been produced, subsection (6), listen to these words:

“Notwithstanding any provisions of this Act or any written law to the contrary, a person who pays a fixed penalty before the expiration of the time specified for the payment thereof may, in the prescribed form, appeal to the Magistrate in the district in which he paid the fixed

penalty in respect of the offence for which he was charged.”

So nowhere in the Commonwealth, nowhere in the Internet world, nowhere in November 2019 for Barataria/San Juan, nowhere in December 2019 for the hon. Member for Siparia who leads this Bench.

None of them could be bothered to crack the volumes which were printed for us as Members of Parliament. Members of the public may not be aware that the laws of Trinidad and Tobago are given to each of us in hard copy and in electronic form. And then most respectfully, I have to stand today to reply to something which is on my iPad. Madam Speaker, hon. Members have to do better than that. And the hon. Member for Barataria/San Juan is not a novice in this Parliament. He sat in the Eleventh Republican Parliament as a Senator and has an iPad right there with him. So I respectfully urge hon. Members—You know, we just heard from Her Excellency in the throne speech as it was put, you have to come prepared, hon. Members. You cannot rely upon skate by and just say so [*Desk thumping*] and expect yourself to rise in the estimations of researchers.

So, Madam Speaker, let us deal—[*Crosstalk*] “Yuh hearing the grumble: where the regulations.” Let us deal with that, let us deal with the regulations. That is the point of courtesy alleged to have been breached by the Member for Barataria/San Juan now schooled in the fact of Internet research and also, Madam Speaker, let us deal with the constitutionality allegation. This dangerous submission coming from Chaguanas West that we are somehow infringing constitutional rights and that we are somehow running afoul of the concepts of proportionality and let alone constitutionality.

Madam Speaker, when we look to the fact of regulations, let me explain this. The Public Health Ordinance is an ordinance, Ch. 12 No. 4, it is Act No. 15 of 1915. We are 105 years with this law in the books of Trinidad and Tobago. Everybody who has ever opened a restaurant, has had permission to develop their land, has passed through this legislation. All of local government has passed through this legislation. Madam Speaker, 105 years old the Public Health Ordinance is, which allows for the promulgation of regulations and hon. Members today come to say there is discourtesy, worse yet, unconstitutionality in failing to bring the regulations forward.

Madam Speaker, could the hon. Members at least have the courtesy to read the Public Health Ordinance? Would they dare reflect upon the provisions of section 103 for the declaration of a dangerous infectious disease? Could they bother to look at Legal Notice of January 31, 2020? Could they understand section 105 of the Act, of the Ordinance which says that the regulations are to be made by the board qua Minister pursuant to amendments in 1965? Can they possibly understand that the Governor in Council and that the Governor equalling to President and Cabinet in different formulations in the in-reverse ratio? Can they possibly understand that the regulations are a feature of the law produced pursuant to the Ordinance? In other words then, Madam Speaker, it is trite, it is now ancient, if one wants to consider 105 years old as ancient because in the system of law, a law that is 105 years old is long on the books of Trinidad and Tobago.

Mr. Rambally: Madam Speaker, 44(8) please. Everything I said—[*Crosstalk*]

[*Madam Speaker stands*]

Hon. F. Al-Rawi: I will give him way, go ahead.

Madam Speaker: I just want to know whether you are standing on a point of order or whether you are asking your friend to give way.

Mr. Rambally: Madam Speaker, I understand my friend has given way. I was—

Hon. Members: “Nooooo.”

Mr. Rambally: And I stood on 44(8) please, Madam Speaker.

Madam Speaker: So which one is it? You are standing on 44(8)?

Mr. Rambally: Yes, please. A misinterpretation of what was stated, Madam Speaker.

Madam Speaker: Please proceed.

Hon. F. Al-Rawi: Thank you, Madam Speaker. I know my friend will come to learn the Standing Orders better over time and perhaps at committee stage, we can discuss what he wishes to raise. But, Madam Speaker, it is a shameful thing for someone to come and pretend that the law, the very construct of the law which allows you to have the parent ordinance in this case, see the promulgation of regulations, in other words then, regulations are subsidiary legislation. Subsidiary legislation is a feature of Commonwealth law. Subsidiary legislation allows you to create a number of things by way of offences for instance in regulations. How can somebody, most respectfully, an honourable Member, schooled in the law, learned in the law, could stand here and say that a regulation could somehow run afoul of constitutionality?

Madam Speaker, you see, the hon. Members opposite present a submission which is easy to answer with respect to the proportionality principle. The proportionality principle defined in umpteen cases, most notably in Trinidad and Tobago in the Northern Construction case in

particular and you could look at all of the Privy Council cases, it is really quite simple. Is there a legitimate aim? Is the measure rationally connected with that aim? And effectively, does the law go so far as it ought to go in a society such as Trinidad and Tobago which respects the democracy as we do? Three limbs. Is there a legitimate aim here? Yes, COVID. Is there a global pandemic? Is it a dangerous infectious disease so declared by Her Excellency the President pursuant to section 103 of the Ordinance? Yes. Are people dying? Yes. Do we need laws to manage this? Yes. Is there a rationale connection with the amendment before us? This amendment before us is to create a fixed penalty system. And my friend stand up to talk about clogging the system and purchasing your right to innocence. That most respectfully is to be rejected out of hand. [*Desk thumping*]

Because, Madam Speaker, it is this Government on the 26th of May, 2020, thanks to the Member for Arouca—sorry, forgive me. Marvin Gonzales, the hon. Member for Lopinot/Bon Air West. That hon. Member worked assiduously to ensure that we proclaimed the motor vehicle and road traffic amendments. [*Desk thumping*] So that 104,000 motor vehicle and road traffic cases which occupy the vast number of cases, there being 146,000 cases per year in the Magistrates' Court, 104,000 of those cases fell out of the system. And these hon. Members come to talk about clogging up the system? [*Desk thumping*]

Madam Speaker, we do not consider the right that you have to due process, equality before the law, fairness in treatment to be a clogging up of the system. That is what the court is there for. And to say that one is purchasing a right to presumption of innocence is to accept from Chaguanas

West that this law can somehow erode the constitutional right provided to each citizen, be it in section 4 or section 5 of the Constitution and this is not a law which seeks to amend the Constitution, nor is it a three-fifths majority law which is derogating from any right in a manner that is inconsistent with the approach for simple majority legislation which we are engaged in. So, Madam Speaker, those submissions must be rejected from hon. Members. Equally so.

What could Barataria/San Juan be asking is confusing in relation to clause 3 and clause 4? How could the hon. Member be confused about clause 3 saying that the maximum penalty for an arrestable offence can be \$250,000 and be confused by clause 4, new section 105H which says that the regulations shall be \$20,000 and you cannot exceed that. They are independent, Madam Speaker, they are mutually exclusive. The arrestable offence amendment in clause 3 is to create the maximum penalty sealing at \$250,000. The proposal in section 105H is that you cap the fine for the breach of the regulations at \$20,000. I can see no confusion in that. It is expressed and I urge the hon. Member to do some more reflection.

With respect to the submission coming on reason to believe, it is the same formulation of words. Madam Speaker, may I ask how much time I have left?

Madam Speaker: You have 30 seconds.

Hon. F. Al-Rawi: Thirty seconds. Reason to believe has anchored in the Motor Vehicles and Road Traffic Act, No. 9 of 2017. Madam Speaker, this law is proportionate, it is rational, it is measured, I stand by it wholeheartedly and 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.

Madam Chairman: AG and Whip, can we proceed with clauses 1 and 2 together?

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

Clause 3.

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

3. A. In paragraph (a) delete the words “(2)” and replace with the words “(3)”;
- B. In paragraph (b) delete the words “(2)” and replace with the words “(3)” and delete the words “(3)” and replace with the words “(4)”.

Mr. Al-Rawi: Madam Chair, should it please you, there was an inadvertent error in the numbering of clause 3 where we had in paragraphs (a) and (b), we had referred to subsection (2) of the section 105 of the Public Health Ordinance, they in fact should be subsection (3) and therefore, we propose as you will see circulated, to paragraphs (a) and (b) in the list of amendments circulated to simply correct that error. Obviously a consequential amendment would have to flow in that we are not inserting a new subsection (3), it is instead a new subsection (4) and therefore, that is the rationale for the proposed amendment.

Question put and agreed to.

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

Clause 4.

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

Madam Chairman: Member for Barataria/San Juan.

Mr. Hosein: Thank you very much, Madam Chair. Madam Chair, this is based on the contribution that was made earlier in the second reading with respect to the appeal to the magistrate and the refund. So this deals with—can I deal with both sub (6) and sub (7)? It is the same clause. So, the first subsection (6) deals with the appeal to the magistrate, and then it is the second at subsection (7) deals with the remittal or the refund of the moneys that would be paid to the persons who appeal.

Now, my issue with this is that we were looking at there is already an alternative to someone who is ticketed. So X is ticketed for an offence under the regulations. He has an opportunity later down in the Bill, either if he does not pay, it would be converted into a summary court matter. Then he goes before the magistrate and the matter proceeds as a regular matter. The issue with this is that we are looking at this can form some level of clogging of the judicial system, in terms of persons can simply pay, then before the time expires, they file a notice of appeal, according to the prescribed form, whatever that form is. And then it will now transfer the whole matter into a summary court matter. Then afterwards, if the person is successful, the Government then has to engage in refunding this person.

As I mentioned earlier there is also interest that would be attached to any moneys that would have been paid to the—would be awarded to the person. That is from this perspective. So I am asking whether or not this actually makes sense to put this particular procedure in the Bill.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. I thank the hon. Member for his explanation. Madam Chair, if I may respond as follows: We do not consider

that someone taking the step in the prescribed form after having paid—in other words then, payment without prejudice is what it effectively is, if you use a civil law concept. They paid without prejudice and therefore they take the prescribed form and then they knock on the door of the court, having escaped the conversion under the Summary Courts Act, into a summons, which could be a warrant, which could then bring you back, et cetera.

Having escaped all of that, the person goes through a simplified process that says: Listen, I paid without prejudice and I am here before you, pursuant to invoking the jurisdiction via this prescribed form, and I wish you to hear me. We do not consider that to be clogging the system. We consider that to be due process. Because we must provide for the opportunity, if elected, for the person to do that. First, is there a precedent for this? Yes there is. As I mentioned earlier, Act No. 24, Dangerous Drugs Act amendment of 2019, new section 5B, subsection (6) and (7) are *pari materia*, exactly on all fours with this position.

Two, is there an alternative structure precedent; albeit not on all fours, but in the same vein? Yes there is, under the Motor Vehicles and Road Traffic Act, where we allow a notice to contest. What was the difference? In the notice to contest provisions in the Motor Vehicles and Road Traffic Act, we were taking an offence and converting it to a violation, pursuant to new sections 20A, 20B and 20C of the MVRT, so amended in 2017, by Act of Parliament. We are therefore in a different regime; notice to contest, violation, civil liability or quasi civil liability, versus criminal offence in *pari materia* with the Dangerous Drugs Act. So we do not consider this to be clogging. We consider this to be a preservation of due process.

If one were to look at the example of mask wearing which would be

defined by way of regulations, which will come the same way the other 25 regulations have come. They will come by way of gazetting Legal Notice for the publication of the regulations. There will be exemptions which will be stated. There will be prescription as to offences. This allows simply the due process point where you disagree with the event: Look, I did not have my mask on. I had an exception, by way of example, because I have an underlying medical condition or physical condition. You did not have your doctor's letter on you. The person ticketed you. You then said: I will pay that without prejudice so I do not convert it into a long form summons. You then end up before the court and you provide it.

I want to remind, Madam Speaker, when we define "offences", the mens rea will always be specified. So one always has the caveat of wilful or intention or some form of mens rea to be discerned by a court if you choose to go there. Or someone might just say: Look, I am paying it.

So Madam Chairman, we are very comfortable, (a), with precedent, and (b), with the distinction between MVRT and dangerous drugs precedence in particular and we are satisfied that this is in good order.

Madam Chairman: Member for Barataria/San Juan, I think we will take all your amendments before I put the question.

Mr. Hosein: Okay, all the amendments to clause 4, okay. I just want to get one point of clarification from the Attorney General in the last submission. AG, you mentioned the point of mens rea for these offences that would form part of the regulations now. Now, most of the time when you have fixed penalty offences, they are really strict liability offences, so like road traffic, dangerous drugs. Those are offences that carry no mens rea but they are strict liability offences. So is it, in this case, all of the offences that fall under

the regulations that are going to fall within the fixed penalty regime will have a mens rea aspect to it?

Mr. Al-Rawi: So Madam Chairman, I cannot speak prospectively to law henceforth, because this law that we have, by way of proposal before us, is for fixed penalties in general. What I can say is that my friend is correct. It is usual that matters are strict liability. But it is not exclusively the case. And in fact my friend, my own colleague from Port of Spain South is here as well, will tell you carefully that even though dangerous drugs has a certain amount of strict liability understanding, there is a mens rea, for instance, in the concept of possession in and of itself, right, constructive or actual or other positions. So I cannot speak in a vacuum of the law but what I can tell you in relation to some of the regulations that Members have spoken about, mask wearing, et cetera, there will be an element of mens rea that is in discussion.

Mr. Hosein: Noted. The next amendment, Madam Chair, is at section 105C and this is at sub (6), 105C(6), which deals with the time limit for the payment of fines under the fixed penalty system.

Now, the Attorney General has proposed 14 days. We have proposed 28 days. This is for the reason that some persons, especially in these hard economic times, may not have the moneys readily available to pay a ticket. So we are asking whether or not there could be an extended period for someone to pay the fine if they are so ticketed?

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, I welcome the hon. Member's expressions. It is out of concern for the realistic time frames, no doubt driven by the understanding of how COVID has affected us. So there are two things I

would like to do. I would like to refer to 5B(12) of the—forgive me, not this Bill but the Dangerous Drugs Act as amended, Act No. 24 of 2019, where we had a 14-day period. What we did there is important because it affects what we propose here. We are harmonizing recent laws at the 14-day period. My friend has raised an important point, which is: Look, will people have enough time, bearing in mind the vicissitudes of the current situation? And the answer to that is: Yes. I will point my friend, I am sure he is aware, to the fact that the Honourable Chief Justice has issued Practice Directions in relation to the deferment of fines and liabilities and payment in respect of those. That is an established method by which one can extend the time frame.

Secondly, Madam Chairman, I remind that this law contemplates the payments into and out of court legislation, which is an Act of Parliament in 2018, by which we allow for multiple methods of payment at TTPost, at different areas, et cetera, where you can simply go into the decentralized centers and pay for your tickets, et cetera. So we are in the modern world. We are on the back of electronic payments which have been very successfully implemented by the Judiciary, by this Government's legislation and I feel comfortable that this can be managed within the 14-day period.

Mr. Hosein: Madam Chair, Attorney General, one of the reasons I looked at this time frame also is that this is also found in the United Kingdom. Under their regulations they give a 28-day period also, and I would imagine they would have a very efficient court system in terms of the payment of fines, especially online, and they have a 28-day period and it does not affect the time limit, because at the end of the day a matter does not come up before the court under this legislation until the passage of two months. So we are

still within the time frame if we increase the time limit for the payment of fines to 28 days. I do not see any prejudice.

Mr. Al-Rawi: Whilst my friend sees no prejudice, if I may respond, the prejudice for me is that we want to keep the law in regular system. We have dangerous drugs. We have motor vehicle and road traffic. Why are we going to create a brand new system for just this law alone? There are thousands of traffic offences every day. Many people are coming before the court for dangerous drugs, for marijuana possession, Madam Chairman. So whilst my friend finds comfort in the United Kingdom, I find comfort in Trinidad and Tobago and I want to keep it there. [*Desk thumping*]

Madam Chairman: So, Member the Barataria/San Juan, can we go on to the third amendment?

Mr. Hosein: The last amendment, Madam Chairman, that we have to deal with is at section 105H. This is the last proposed section in the Bill. It is at page 5. This deals with the issue with respect to the powers being given by the Minister and this was also raised in the debate by several Members in terms of the lack of Parliament oversight and Parliament scrutiny, when the Minister would be the one deciding which offence attracts which penalty and which fine. And they are asking whether or not this prescription that is going to be made by the Minister, and that is the Minister of Health, be subject to affirmative resolution of both Houses of Parliament. And also, there is another amendment where, if the Attorney General is not so minded, let the fine not be \$20,000, because that is a very large fine for someone to pay. We could reduce it to \$5,000.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. Let us deal with this concept of

too much power for Minister. Madam Chairman, this law, I wish to assure you, and the hon. Members of this House, and those persons in the public domain who are looking on, this law is well within the keeping of the principle of subsidiary legislation.

The provisions of 105H allow for the Minister of Health, from time to time, by order, to amend the regulations in 105, to adjust fixed penalties. If we were to put a cap at \$5,000 for fixed penalties, Madam Chairman, we need to look immediately to the Yellow Fever example. We need to look to the seat belt driving example, where you have a \$2,000 fixed penalty. We need to look to a tint on your car at a thousand dollars a window.

Madam Chairman, we are talking about life and death with COVID, hundreds, if not thousands of people exposed. For me to accept a recommendation and to advise my hon. colleagues that this Parliament ought to drop the cap to \$5,000 is most respectfully quite astonishing, because even the CMO himself, when we were looking at the concept of regulations, said to me and said to the hon. Minister of Health and Minister of National Security, that we have to be very careful to allow this to be persuasive by way of weight of offence. And therefore, Madam Chairman, we consider it important, so that we can have an upper ceiling under which to operate that we prescribe the offences from time to time by way of the regulations.

Let us deal with the affirmative resolution. Madam Chairman, for people who are not familiar with what affirmative resolution is, to pass the amendment we would have to move both Houses of Parliament to convene a session, a sitting, to look at the issue of adjusting the fixed penalties. Whilst Rome is proverbially in the burning state of collapse, we would be in both Houses of Parliament wishing that we could have amended the law.

Let me remind you, hon. Chairman, without offending any rules in the Standing Orders. In fact, it is a sitting Member of the Senate, if I am not mistaken, who is involved in litigation to strike out all of the laws under the Public Health Regulations on the UNC bench, all. And that is to say that all of these laws are invalid. Not only is it open up bars, free up Ian Alleyne, “leh people go”, it is also to strike out the entire public health regulation system.

So Madam Chairman, I have to be very careful when I listen to my friends tell me, and tell this honourable House that they are interested in good law, when their own Members appointment by Siparia are persons—now I make no complaint, you are entitled to go to court. But you have to look at whether you are approbating and reprobating at the same time. And that is the caution. I make no disparaging statement of any hon. Member, because hon. Members are entitled to practise their profession. But when you sit on a bench in the political arena, you have to be careful about it.

So, Madam Chairman, I wholeheartedly reject the recommendation to have a sitting of Parliament for affirmative resolution to amend an order. That would be a tragedy to the people of Trinidad and Tobago.

Madam Chairman: Member for Barataria/San Juan.

Mr. Hosein: Madam Chairman, what is astonishing is that the fact that the person who is in charge with seeking the public’s interest and being the guardian of democracy is allowing us and allowing his Government for his Minister of Health to have such wide-reaching and—[*Crosstalk*]

Madam Chairman: Members, I would like to hear the contribution of the Member for Barataria/San Juan.

Mr. Hosein: You are allowing the Minister to have such wide-reaching

powers, Madam Chairman, without any check and balance. The fact is, when regulations are passed, with creation of offences the Parliament is not involved, first to begin with.

Then we are now hearing that the Minister is going to set the fines that are going to be paid through fixed penalty. And again the Parliament is not involved in this. And I cannot see why the Attorney General is objecting to this point so heavily. Because at the end of the day, just because something is made via subsidiary legislation does it make it constitutional or legal? There have been several cases before the court that have been struck down. The Commissioner of Police case, the Harridath Maharaj case, where the Member for Siparia was Senior Counsel in that matter defeating the Attorney General, where subsidiary legislation was in fact struck down.

Madam Chairman: All right, so, Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. Well, first of all I urge my hon. colleague to go and read the judgment he is referring to. The law was not struck down, it was modified and the one line of it that was modified is far from strike out. [*Crosstalk*]

Madam Chairman: Order! Order!

Mr. Al-Rawi: But Madam Chair. Thank you, Madam Chair. So Madam Chair, I urge my colleague to read. Do not catch the exhortations of the Member for Siparia to mention the case after five times she nudged you. The point is, it is not what you said, full stop.

Secondly, Madam Chair, the issue as to whether this law ought to be protected. The hon. Member said that there is no check and balance. Madam Chair, I want to remind that our system of democracy, the Westminster system that we operate on, is essentially premised about the three pillars: the

Executive, the Judiciary and also the Legislature. The check and balance is to be found by way of the process of law. There is a full scrutiny in the court.

Secondly, there is a cap within proportional limits at \$20,000. Had the regulation suggested a sum which was higher than that, one could allege that it was disproportionate on account of excessive criminalization. That is not the case. There are umpteen cases in the law, in relation to that matter, Madam Chairman. So Madam Chairman, as complaintive as the tone of Barataria/San Juan may be on this issue, it is most respectfully not accepted.

Madam Chairman: Okay, so I will now—*[Interruption]*

Ms. Ameen: Madam Chairman, seeing that the Attorney General has so much objection to the Member for Barataria/San Juan's amendment to have affirmative resolution, can I ask if he is willing to then perhaps consider negative resolution, where it would be published, and it would be up to a responsible Opposition to bring a motion to negative it?

Madam Chairman: Attorney General.

Ms. Ameen: Madam Chairman, if I may, I feel that that would at least bring some measure of accountability and bring it to the attention of the nation with an opportunity to bring different views to balance, rather than just leaving the Minister with the absolute power.

Madam Chairman: Thank you, Member for St. Augustine. Attorney General.

Mr. Al-Rawi: I thank the hon. Member for the submission. I will explain why, as sensible a submission as that is, if I could ask the hon. Member to understand the position that I am now about to put forward.

Because we are dealing with saved law, the Public Health Ordinance

in particular allowing for the Minister, under section 105, to promulgate regulations, which are enforceable. Because we are dealing with that saved law as it is, if we were to take two steps removed, that is the order to amend the Schedule in the regulation, we would be offending the structure of the law.

Let me explain it another way. Section 105 of the Public Health Act allows for a regulation to be produced. What 105H does is to say: Listen, you produced a regulation, in that regulation you have a fixed penalty, for example mask wearing, a thousand dollars. It is in a Schedule to that regulation. What 105H does is to say: You see that schedule to the regulation? Instead of causing a new regulation to be issued, just amend the Schedule by way of order. And that, Madam Chair, is what 105H is intended to do. It is not intended to give the regulations a review. It is the Schedule to the regulation.

Now why? Because when you are looking at the police and their enforceability of matters, each time we revoke regulations and put new regulations in, we have to now look at people when they were charged at a particular day in time. So you may very well want to preserve the regulations as they are, but simply amend the fixed penalty sum. The savings that we have, Madam Chairman, in terms of caution and proportionality is that the sum that we are treating with must be under \$20,000. And that therefore is the careful cap in terms of proportionality within the cases that speak to excessive criminalization or disproportionate criminalization. There is a whole realm of cases on that run.

So respectfully we do not accept the invitation to use a negative resolution because we are not amending or looking at the regulations. We

are looking at a subset of the regulation, which is the Schedule to the regulation.

Madam Chairman: So I will now put the question.

Question, on amendment, [Mr. S. Hosein] put and negatived.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

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

House resumed.

Hon. Al-Rawi: Thank you Madam Speaker. Madam Speaker, I wish to report that the Public Health (Amdt.) Bill, 2020 was considered in committee of the whole and approved with amendments. I now beg to move that the House agree with this report from the committee.

Question put and agreed to.

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

Madam Chairman: Leader of the House.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to a date to be fixed.

Opening of the Twelfth Parliament Greetings

Madam Speaker: Hon. Members, I will now invite Members on each side to express greetings on the opening of the Twelfth Parliament. I call upon the Member for Diego Martin North/East.

The Minister of Finance (Hon. Colm Imbert): [*Desk thumping*] Thank you Madam Speaker. On behalf of the Government and on behalf of the hon.

Opening of the Twelfth
Parliament Greetings (cont'd)
Hon. C. Imbert (cont'd)

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Prime Minister and on behalf of the People's National Movement, I wish to extend greetings to all 41 Members of this House. We have just come through quite a grueling general election and I would dare say a free and fair election, [*Desk thumping*] resulting, as elections do in Trinidad and Tobago, in a Government and an Opposition.

In today's complex world, Madam Speaker, parliamentary democracies are called upon to grapple with forces that often seem beyond our control; forces that affect our security, our economies, our livelihoods, and the well-being of our citizens. COVID-19 is a case in point. And Parliaments have a key role in addressing this challenge. If I am to borrow from a 2006 paper published by the Inter-Parliamentary Union, which is still relevant today, and I quote:

“As the central institution of democracy,”—Parliaments—“embody the will of the people in government, and carry...their expectations that democracy will be truly”—representative—“to their needs and help solve the most pressing problems that confront them in their daily lives.

As the elected body that represents society and all its diversity, parliaments have a unique responsibility for reconciling the conflicting interests and expectations of different groups and communities through the democratic means of dialogue and compromise.

As the key legislative organ, parliaments have the task of adapting society's laws to its rapidly changing needs and circumstances. As the body entrusted with oversight of government, they are responsible for

Opening of the Twelfth
Parliament Greetings (cont'd)
Hon. C. Imbert (cont'd)

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ensuring that governments are fully accountable to the people.”

Now, Madam Speaker, there is a view held by some that we in this place sometime fall asleep, sometime do not pay attention, visit their constituencies once every five years. I totally disagree. [*Desk thumping*] I have been a parliamentary representative now for 29 years and I can say for myself, I am speaking for everyone in this Chamber, including all Members opposite, that all of us conscientiously, diligently, and faithfully serve the people that voted for us.

Sometimes there is crosstalk. Sometimes it is banter. Sometimes we get a bit heated, but I firmly believe that every elected Member truly wants to do a good job and serve the interest of all the people of Trinidad and Tobago. [*Desk thumping*]

So on behalf of the Government, on behalf of the hon. Prime Minister, the People's National Movement, and on my own behalf and I wish you, Madam Speaker, another successful term as our presiding officer, and may I wish all elected Members a fruitful and rewarding and productive parliamentary term. I thank you, Madam Speaker. [*Desk thumping*]

4.50 p.m.

Madam Speaker: Hon. Member for Siparia. [*Desk thumping*]

Mrs. Kamla Persad-Bissessar SC (Siparia): Thank you. Thank you very much, Madam Speaker. I take this opportunity to congratulate all Members of this House on both sides. And like my colleague for Diego Martin North/East, we have been here quite a while. We have been sparring back and forth from both sides of the House, different sides of the House but I want to agree with the sentiment that every person in here really wants to do

Opening of the Twelfth
Parliament Greetings (cont'd)
Mrs. Persad-Bissessar SC (cont'd)

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the best they can for Trinidad and Tobago [*Desk thumping*] and for their constituents. We will indeed be in very challenging times, and at times the tempers may flare. At times we may get laughter across the floor, but at the end of the day given the long period of service some of us have had in this House, we take it, the cut and thrust we go along with it. Sometimes the younger ones and the newer ones might be a little more hasty but we do welcome all the new ones, all the younger ones who are here [*Desk thumping*] congratulations. It would keep us on our toes, our P's and Q's as it were as we take this pathway together.

I wish every Member here the best in this parliamentary term, a term that is filled with challenges and with the darkness of the COVID, not just here but you know, around the world. So, we may have to really sacrifice some things in order to do the best that we can. So Madam, thank you very much. Members of this House, I congratulate you all, and thank you again. [*Desk thumping*]

Madam Speaker: Hon. Members, I crave your indulgence and seize this opportunity to express my humility in being elected to serve our beloved twin island Republic in the esteemed office of Speaker of the House of Representatives of this Twelfth Parliament.

To borrow the words recently spoken by another female office holder, I wish to assure you and the national community that I have thought long and hard about my acceptance of the Government's nomination. Having thought long and hard, I have concluded that my active participation in the development of the democracy of my country is not yet over. [*Desk thumping*] I am clear in my understanding that the role of Speaker is not a

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popularity contest. I am also very clear in my mind that the primary function of the Speaker is to impartially enforce the Standing Orders of the House. Those rules were created by Members who preceded you and by which you have agreed to bind yourselves until such time as they are changed by you, collectively, in accordance with the rules about procedures of parliamentary practice.

Although Members may be free even publicly to express their view that they do not take fancy to the Speaker, hon. Members, harbour no doubt that a Speaker, this Speaker, is not at liberty to even form such a view far more to express it in any form or manner. As I survey this Chamber, I see familiar faces and many new faces. In the tradition of some of my predecessors I assure you that I will continue to uphold the rules of order of this august House and the tenants of sound parliamentary practice and procedure which are well established by this Chamber and other Commonwealth legislatures. I thank you. [*Desk thumping*]

Independence Day Greetings

Madam Speaker: Hon. Members, as we all know Independence Day will be celebrated on Monday, August 31, 2020. Before I put the question on the adjournment of the House, I will now invite Members to express their greetings. I call upon the Member for San Fernando East. [*Desk thumping*]

The Minister in the Ministry of Finance (Hon. Brian Manning): Thank you, Madam Speaker. On behalf of the Government of Trinidad and Tobago I have been tasked to really bring Independence Day greetings to this honourable Chamber and to the people of Trinidad and Tobago in what is proving to be my maiden voyage in this honourable House. Today has been

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a memorable one. I have to say that being in this Chamber has brought back the flood of both memories and emotions. And I would like to begin by thanking the people of San Fernando East, the great constituency of San Fernando East for placing their faith in me. [*Desk thumping*]. I am both humbled and inspired by this responsibility and it is not one that I take lightly.

On Monday August 31st we celebrate our 58th anniversary of Independence and due to COVID-19 restrictions it would be a muted celebration. There will not be any national parade, there will not be any public gatherings but that in no way should diminish the importance of the day that the people of this great country achieved our freedom. [*Desk thumping*] We may have our challenges and we certainly have our differences, but Trinidad and Tobago remains one of the crown jewels of the Caribbean. [*Desk thumping*] That is not something that we should forget or take for granted. As a famous author once said, Mr. Albert Camus, freedom is nothing more but a chance to be better. Freedom allows for choices and in those choices lay our destiny.

Hon. Members, I remind you as I remind myself that the people of Trinidad and Tobago have freely given us the authority and opportunity to make choices on their behalf, that is why we here. I challenge us, as I challenge myself, to commit to making decisions that will most benefit our people and bring prosperity and security for generations to come. On behalf of the Government of Trinidad and Tobago and the hon. Members on this side, I would like to wish all of my colleagues and the people of Trinidad and Tobago a happy and safe Independence Day. Thank you. [*Desk*

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thumping].

Madam Speaker: I also want to recognize that the Member for San Fernando East, this would be his maiden contribution in this House. Member for Pointe-a-Pierre.

Mr. David Lee (*Pointe-a-Pierre*): Thank you, Madam Speaker. [*Desk thumping*] It is my pleasure to bring greetings on behalf of the Opposition as we mark 58 years as an Independent nation. Some of us can remember the day when the Union Jack was lowered and the red, white and black was hoisted in its stead, we replaced “God Save the Queen” with our own “Forged from the Love of Liberty”.

Over the years critics have been very vocal about what we should have achieved and what we should have done. However, as a young nation we have shown that we were able to overcome all the odds that were stacked against us in a hostile world. We have been able to accomplish so many great things that we as a small nation from the Caribbean, not even 60 years old could be placed on the same level of accomplishments with many of our older ancient civilizations.

In the years leading up to the August 31, 1962, we aspired as a nation towards the freedom to chart our course. As we mark the 58th anniversary of our independence facing unprecedented challenges posed by global pandemic and a corresponding economic fallout, each of us is called upon to rekindle the fires of hope and prayer and meet these challenges with boundless faith in our destiny.

We must aspire to be better, to do better, to build a stronger united and prosperous nation for future generations. As we mark another year of

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independence, we are called to ensure that the values of determination, unity, hard work and patriotism are renewed. As we work towards the creation of a nation that is conducive to equality as well as opportunity for all. It is our responsibility to now help pave the way for the next generation. There are many challenges our nation currently faces. We have entered an economic state of emergency brought on by the incompetence and dereliction of duty by the administration that was at the helm over the last five years. [*Desk thumping*]

Mrs. Robinson-Regis: And we still in government.

Mr. D. Lee: The solutions to these challenges reside in all of us—

Mrs. Robinson-Regis: We still in government.

Mr. D. Lee: —and together we will meet them head on. Because there is no obstacle that cannot be overcome by a people united. In the words of our first Prime Minister:

“Whatever the challenge that faces you, from whatever quarter, place always first that national interest and the national cause. The strength of the nation depends on the strength of its citizens.”

I have faith in the citizens of our nation in their strength, their innovative spirit and their courage. I call on all citizens to reject those who seek to promote divisiveness in our society. I continue to believe as I have always said that before that our greatest strength will always lie in our unity.

Only in Trinidad and Tobago can one witness the level of multiculturalism coexisting not only peacefully but intermixing and intertwining to form entirely new cultures, the true melting pot of Trinidad and Tobago. As we mark this important occasion let us remember those that

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came before us and who helped to pave the path we now walk upon. We pay tribute to those leaders and seek to build on what they have laid for us. The road ahead will no doubt be a difficult one, but we have proven ourselves to be resilient people. At this time our country requires strong leadership to confront the challenges we face. It is up to each of us to continue to work towards advancing our national development and building a prosperous future for all Trinidadians and Tobagonians. We must be determined and unwavering in our efforts to take our country forward and take whatever steps are necessary to secure the best possible future for Trinidad and Tobago. And I believe that together we can live up to our national motto “Together we aspire; Together we achieve”. I thank you. [*Desk thumping*]

Madam Speaker: Hon. Members, I join with those of you who have stood before me to bring greetings on this occasion of our 58th anniversary of independence. Hon. Members, we as citizens may be growing accustomed to marking our individual milestones and our national celebratory events differently as COVID-19 has significantly altered the way we do things, including the usual festivities attendant on the anniversary of our independence. But as we may have learnt, and certainly it behoves us to teach the young among us some things never change. The premise, hope and aspirations of the architects of the new independent nation of Trinidad and Tobago ring true today as at any other time in the past. Our watch words of discipline, tolerance and production should be ever present in the words, deeds and actions of each citizen as we adjust collectively and individually to this dynamic and uncertain environment.

Hon. Members, today we stand where it all started in 1962 and as it is

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my recollection this may be the first time in a long time, if at all, that a sitting of this House is taking place on the threshold of Independence. With respect, I think it is most fitting that I recite on your behalf for the entire nation and for all citizens wherever they may be our National Pledge recommitting us all to nationhood:

“I solemnly pledge to dedicate my life to the service of my God and my country.

I will honour my parents, my teachers, my leaders and my elders, and those in authority.

I will be clean and honest in all my thoughts, my words and my deeds.

I will strive, in everything I do to work together with my fellowmen of every creed and race, for the greater happiness of all and the honour and glory of my country.”

On behalf of the Clerk of the House and the staff of the Parliament of Trinidad and Tobago, and on my own behalf, may I wish you all a happy and safe Independence Day. I thank you.

Question put and agreed to.

Madam Speaker: This House now stands adjourned to a date to be fixed.

House adjourned accordingly.

Adjourned at 5.06 p.m.