

Leave of Absence

Tuesday, December 14, 1999

SENATE

Tuesday, December 14, 1999

The Senate met at 10.01 a.m.

PRAYERS

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

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, leave of absence has been granted to Sen. The Hon. Sadiq Baksh with effect from December 14, 1999 and continuing during his absence from Trinidad and Tobago.

SENATORS' APPOINTMENT

Mr. Vice-President: I have been informed that we have communication from the office of His Excellency, Arthur N. R. Robinson, as follows.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C.,
O.C.C., S.C., President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

TO: MR. GEORGE DHANNY

WHEREAS Senator Sadiq Baksh is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, GEORGE DHANNY, to be temporarily a member of the Senate, with effect from 14th December, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Sadiq Baksh.

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 9th day of December, 1999.”

Mr. Vice-President: I have further communication.

Senators' Appointment
[MR. VICE-PRESIDENT]

Tuesday, December 14, 1999

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,
S.C., President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

TO: MR. DAVE COWIE

WHEREAS Senator Ganace Ramdial is incapable of performing his functions as a Senator by reason of illness:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVE COWIE, to be temporarily a member of the Senate, with immediate effect and continuing during the period of illness of the said Senator Ganace Ramdial.

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 13th day of December, 1999.”

CHRISTMAS GREETINGS

Mr. Vice-President: I have also received a letter from His Excellency, Arthur N R Robinson to the President of the Senate, Red House, St. Vincent Street, Port of Spain as follows:

“My dear Mr. President,

On behalf of my wife and myself, I wish you and the other Honourable Members of the Senate and your respective families, good health and Peace and Happiness during the Christmas holidays and throughout the New Year.”

OATH OF ALLEGIANCE

George Dhanny and Dave Cowie took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Audited Financial Statements for the National Insurance Board for the financial year 1999. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]

2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and Financial Statements of the Naparima Bowl Board for the year ended December 31, 1996. [*Sen. The Hon. W. Mark*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Naparima Bowl Board for the year ended December 31, 1997. [*Sen. The Hon. W. Mark*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Naparima Bowl Board for the nine-month period ended September 30, 1998. [*Sen. The Hon. W. Mark*]

ENVIRONMENTAL MANAGEMENT BILL

Bill to repeal and re-enact the Environmental Management Act, 1995 and to validate all acts or things done or omitted to be done thereunder, [*The Minister of the Environment*]; read the first time.

Motion made, That the next stage be taken at a later stage of the proceedings. [*Sen. The Hon. W. Mark*]

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, under Bills Second Reading we would like to propose to the Senate that we move to Bills Nos. 2, 3 and 4 instead of Bill No. 1 and that Bill No. 1 be taken at a later stage in the proceedings.

Agreed to.

RELATED BILLS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, Bill No. 2, "An Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50", Bill No. 3 "An Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50 and Bill No. 4 "An Act to amend the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52 are interrelated. I therefore seek leave of the Senate to deal with them together.

Question put and agreed to.

**MOTOR VEHICLES AND ROAD
TRAFFIC (AMDT.) (No. 2) BILL**

Order for second reading read.

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

That a Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50, be now read a second time.

Mr. Vice-President, in respect of the Motor Vehicles and Road Traffic (Amdt.) (No. 2) Bill, the objective of this amendment is to introduce into the road traffic law of Trinidad and Tobago the statutory offence of causing death by dangerous driving and to substitute for the existing offence of reckless or dangerous driving a reformulated offence of dangerous driving. At present, where death results from a motor vehicle accident, the matter is normally prosecuted as manslaughter, which is an offence at common law and carries the maximum penalty of life imprisonment. In order to secure a conviction for that offence the prosecution is required to establish a very high degree of negligence.

The standard of negligence required to constitute the dangerous driving offence contrary to section 71 of the Act is not the same as required to constitute the offence of manslaughter arising out of the negligent driving of a motor vehicle. Mr. Vice-President, a person may drive a motor vehicle at a speed or in a manner dangerous to the public within the meaning of section 71, cause the death of a person and yet not be guilty of manslaughter.

Where the matter is one of manslaughter, in directing a jury on a charge of manslaughter arising out of driving a motor vehicle, the judge would first have to tell the jury that a very high degree of negligence must be proved in order to establish the crime of manslaughter, and then go on to explain that the degree of negligence is not necessarily the same as that which is required to constitute the offence of reckless or dangerous driving. It becomes quite clear then that, even if the prosecution could establish the offence of reckless or dangerous driving, it does not necessarily follow that it could succeed in establishing the offence of manslaughter as the degree of negligence necessary to establish that offence is higher than that for the driving offence.

10.15 a.m.

Mr. Vice-President, as mentioned earlier, manslaughter carries the maximum penalty of life imprisonment and experience has shown, also, that juries can

sometimes be reluctant to convict motorists of manslaughter for the reason that they rarely find the necessary high degree of negligence has been established, a finding which would expose the motorists to a possible sentence of imprisonment for life.

The result is that the accused is acquitted of the charge of manslaughter and can be found guilty of the lesser offence. The present penalty for the lesser offence is very inadequate to take account of the loss of life occasioned by the driver's action.

In the United Kingdom, where the same difficulty was experienced, there was law enacted which introduced the specific offence of causing death by dangerous driving. The result is that where a charge for causing death by dangerous driving is brought by the prosecution, it is not required to prove the same high degree of negligence, which is necessary to ground a conviction for manslaughter.

The reconstituted offence of dangerous driving proposed in this Bill would replace the existing offence of reckless or dangerous driving and would introduce a more objective assessment of the driver's behaviour. The redesigned offence requires only that bad driving be demonstrated by its consequences, rather than by establishing a driver's intention. The successful prosecution of offenders for causing death by dangerous driving would hinge upon the ability of the prosecution to prove dangerous driving and then to establish the causal link between the death and the driving.

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

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

If we look at the provisions of the Bill on a clause by clause basis, we would see that clauses 1 and 2 are self-explanatory so we can move straight on to clause 3.

Motor Vehicles (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, December 14, 1999

Mr. Vice-President, this amendment Bill presented an opportunity to revise the penalty for driving under the influence of drink or drug and, as a result, clause 3 seeks to amend section 70 of the Act to provide penalties which reflect the seriousness of the offence. To discourage motorists from engaging in the practice of consuming alcohol or drug and driving, regardless of the danger they pose to other motorists and pedestrians, the proposed amendment would increase significantly the penalty for that offence.

At present, the penalty for a first offence is a fine of \$2,000 and imprisonment for six months and on any subsequent conviction, the penalty is a fine of \$4,000 and imprisonment for 12 months. Additionally, on a first conviction, a convicted person is disqualified from holding or obtaining a driving permit for a period of at least 12 months. On a second conviction for a similar offence, disqualification is permanent.

The amendment proposes to increase the penalty so that for a first offence, the penalty would be a fine of \$8,000 and imprisonment for three years, and on any subsequent conviction, the penalty would be a fine of \$15,000 and imprisonment for five years.

As to disqualification, it is proposed for a first offence, to increase the minimum period of disqualification from 12 months to three years. As disqualification is permanent on a second conviction for a similar offence, it was unnecessary to propose any further changes.

Clauses 4 and 5 speak to the main purpose of this amendment and deal with the new dangerous driving offence. Clause 4 would repeal the existing clause 71 of the Act which deals with the driving offence of reckless or dangerous driving and would replace it with a new section 71, which would introduce the new offence of causing death by dangerous driving. The new offence would carry a penalty of imprisonment for 15 years along with a mandatory disqualification from holding or obtaining a driving permit. The amendment proposes a minimum disqualification period of five years upon a first conviction; a subsequent conviction for a similar offence would lead to permanent disqualification.

The new section 71 would empower a constable, in certain circumstances, to arrest without a warrant a driver of a motor vehicle who, within his view, commits an offence under this section. These circumstances would be where the driver:

“...refuses to give his name and address, or if the constable has reason to believe that the name or address so given is false, or if the motor vehicle does not bear an identification plate.”

Section 71 states that:

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

Clause 5 seeks to amend the Act by inserting into the Act two new sections, section 71A and section 71B. The new 71A would introduce the reformulated offence of dangerous driving. A person convicted of that offence would be:

“...liable on summary conviction to a fine of ten thousand dollars...”

—not an insubstantial sum—

“...and to imprisonment for five years.”

Periods of disqualification from holding or obtaining a driving permit are also prescribed for this offence. Upon a first or second conviction, the mandatory minimum period of disqualification would be 12 months; a third conviction for a similar offence would result in permanent disqualification. It should be noted, Mr. Vice-President, that permanent disqualification comes upon a third conviction for the offence of dangerous driving, while in the case of the offence of causing death by dangerous driving, permanent disqualification comes with the second conviction.

The proposed amendment prescribes the criteria of dangerous driving, thus simplifying the particulars required to prove the offence of dangerous driving. The standard of driving would be judged in absolute terms taking into account factors such as no experience, age or disabilities. Those factors would become relevant only for the purpose of sentencing.

A person drives dangerously, if the way in which he drives falls below what would be expected of a competent and careful driver, and it would be obvious to a competent and careful driver that driving in that way would be dangerous. The state of the vehicle would also be an important factor in dangerous driving offences. The proposed amendment makes the state of the vehicle relevant to both offences, so that a person drives dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

The court:

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

Motor Vehicles (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, December 14, 1999

These requirements of the offence would be met if the state of the vehicle was such that a competent and careful driver would not drive it at all.

Mr. Vice-President:

“...‘dangerous’ refers to danger either of injury...”

—however minor—

“...to any person or of serious damage to property;”

The danger would have to be one which a competent and careful driver would have appreciated or observed. It would not be necessary to establish that any person or property was actually endangered. It would be sufficient for the prosecution to establish that a competent and careful driver would have appreciated that some person or property might be endangered by the driver’s manner of driving.

Additionally, in determining:

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

A substantive amendment which would be introduced by this amendment requires certain consequential changes which are effected by clauses 6 and 7.

Clause 6 would amend section 73 of the Act by removing the reference “to reckless or dangerous driving” and introducing a reference to the reconstituted offence of dangerous driving.

Clause 7 would seek to amend section 81 by replacing the reference in that section to section 71 with a reference to section 71A. At present, section 71 deals with the power of a magistrate to proceed on a charge for careless driving on the hearing of charges under section 70, driving when under the influence of liquor; or section 71, reckless driving. If that power is to be preserved in regard to the offence of dangerous driving which would now be dealt with in the new section 71A, the reference to section 71 must be replaced by a reference to that section, section 71A.

Trinidad and Tobago is not unique in attempting to take a tougher position against bad driving practices, or in attempting to find a way to ensure that the courts are better equipped to secure convictions where death is caused by dangerous driving.

In 1991, the United Kingdom revisited its traffic laws with the result that stiffer penalties were imposed for a range of motoring offences from causing death by dangerous driving to driving without insurance. At the same time, several new or revised offences were introduced. Of concern to us here was the revision of reckless driving offences which is now the offence of dangerous driving and the introduction of the new statutory offence of causing death by dangerous driving. The offence of dangerous driving attracts a maximum penalty of five years' imprisonment; a minimum two years' disqualification; mandatory retaking of the driving test and an unlimited fine.

The position is similar in Canada where section 249 of the Criminal Code provides that a person who operates a motor vehicle in a manner that is dangerous to the public and, as a result, causes the death of another person, commits an offence and is liable to imprisonment for a term not exceeding 40 years.

In the state of South Australia, the penalty for causing death by dangerous driving is 10 years' imprisonment and a minimum loss of licence for five years.

It is hoped that the introduction of these measures would encourage every citizen to be mindful of his social responsibility to preserve human life. Bad driving practices put lives at risk and ought not to be tolerated. If, as individual citizens, we cannot or will not drive in a manner which seeks to ensure the preservation of life, then as a society, we reserve the right to impose appropriate sanctions.

Perhaps, knowledge of this amendment which significantly enhances the ability of the prosecution to obtain a conviction where death results from a motor vehicular accident, would encourage motorists to adopt safer driving practices. That deals with the Motor Vehicles and Road Traffic (Amdt.) (No. 2) Bill.

I will now deal with the Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill which seeks to introduce a system of awarding penalty points against a person for the commission of offences under the Motor Vehicles and Road Traffic Act, Chap. 48:50. The Bill also seeks to implement a traffic warden system in Trinidad and Tobago and under this system, traffic wardens will perform certain minimal functions related to traffic flow and illegal parking; also, in relation to assisting the police in the enforcement of the law.

A points system existed in Trinidad and Tobago in the 1960s. A point schedule allotted a specified number of points for each conviction registered for a traffic offence. Information on offenders and their convictions was forwarded to the Transport Division which used the information provided by the courts, its

Motor Vehicles (Amdt.) Bill

Tuesday, December 14, 1999

[HON. R. L. MAHARAJ]

driving permits record and the point schedule to keep a file on each offender. When such an offender sought to renew his driving permit, if his records revealed that he had exceeded a stipulated number for a stipulated period, his driving permit was suspended for a stipulated period.

At that time, when the system was in existence, driving permits were in a book form and details of convictions for the traffic offences were recorded therein.

In 1978, when laminated driving permits were introduced, the points system fell into disuse. The Minister of Works and Transport held consultations with the appropriate officials and bodies, and is of the view that the reintroduction of the penalty points system would go a long way toward protecting children, pedestrians and law-abiding drivers from negligent and accident-prone drivers.

10.30 a.m.

In order to achieve this purpose, Bill No. 3 would insert by way of clause 3, new sections numbered 86A to 86C into the present Act.

Section 86A, as proposed, would empower the Licensing Authority to suspend the driver's driving permit for a period not exceeding six months. Such a suspension may result where the person's record as a driver of a motor vehicle, or his conduct or habit as a driver, establishes that it would not be in the interest of public safety for him to hold a valid driving permit, or that he is not competent to drive a motor vehicle. The proposed section would also enable the President to make regulations establishing the system of awarding penalty points against an offender for offences under the Motor Vehicles and Road Traffic Act and the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, Chap. 48:52.

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

Where a person is disqualified by a court from holding or obtaining a driving permit for a specified time, the points accumulated by him up to that time will be cancelled. This would be in effect of subsection (6) as proposed.

Subsection (7), Mr. Vice-President, would provide that a person who holds a valid driving permit and, out of the same incident, commits two or more offences under the Motor Vehicles and Road Traffic Act and the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, shall be awarded penalty points for the offence which carries the largest number of points that may be awarded against him.

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

The proposed section 86B would ensure that the rules of natural justice are complied with before an offender's driving permit is suspended. This clause would, therefore, require the Licensing Authority to notify the offender of the former's intention to suspend the latter's permit and give him 14 days to show cause why the Licensing Authority should not suspend the driving permit. Where the offender fails to show cause if the authority, after considering any mitigating factors decides on suspension, the authority shall give the offender written notification of the suspension. Mr. Vice-President the suspension will have no effect until 14 days after the offender has been informed of the suspension. The offender will have a right of appeal to a court against the authority's decision to suspend his permit.

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

The Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill will introduce a traffic warden system. Clause 3 of the Bill would insert in the parent Act, the definition of a traffic warden as a person appointed in accordance with the provision of section 10A of that Act. Section 10A would empower the Police Commissioner to precept traffic wardens, subject to the approval of the Minister and subject to criteria established by the Minister responsible for transport after consultation with the Licensing Authority and the conditions established by the same Minister.

The traffic wardens will be responsible for assisting the police in connection with the control and regulation of road traffic and with the enforcement of the law. Traffic wardens may be private individuals or members of organizations. The

*Motor Vehicles (Amdt.) Bill**Tuesday, December 14, 1999*

[HON. R. L. MAHARAJ]

uniform of the traffic warden will be that as approved by the Commissioner of Police. It will be an offence for a driver to fail to comply with directions given by a traffic warden on duty or for any person to obstruct the traffic warden in the execution of his duty, or to aid or abet any person not to comply with the directions of a traffic warden, or so to obstruct the warden in the execution of his duties.

Mr. Vice-President, with the introduction of traffic wardens, many police officers who are doing traffic duty can then be utilized to concentrate on other police duties which seem to be in great demand at this time. So, quite apart from assisting in the prosecution of traffic offences, they would, in effect, be able to concentrate on much more serious offences. That deals with the Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill.

I now come to the Motor Vehicles and Road Traffic (Enforcement and Administration) (Amdt.) Bill. This Bill seeks to alleviate certain difficulties now being experienced by the magistracy in its enforcement of certain road traffic laws.

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

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

According to provisions of the Act governing the ticket system, motorists given tickets for traffic offences can pay fines associated with these tickets at any of the courts, the wardens' offices or licensing offices which are located in districts all over Trinidad and Tobago. It has proven extremely difficult to put in place a system that would ensure that information regarding the payment of these

finer reaches the relevant court in a timely, regular and sustained manner. The result is that very often when a matter reaches the court, in instances where the offender is not present to answer the matter, the magistrate, unable to verify whether payment has actually been made, is usually reluctant to either issue a warrant in respect of the offender or to determine the matter *ex parte*. He generally opts for the issue of a fresh summons and that process goes on and on. The police resources then become engaged in chasing or locating the offender in a very time-consuming and unproductive exercise.

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

Mr. Vice-President, clause 4 would amend section 3 of the Motor Vehicles and Road Traffic (Enforcement and Administration) Act in the following ways: In subsection (2)(a), the words "registered owner" are replaced by the word "owner" giving it the meaning assigned to it by the Motor Vehicles and Road Traffic Act Chap. 48:50. This would remedy one of the deficiencies referred to above.

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

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

New subsection (7) and subsection (8) would allow an alleged offender who believes he has a good defence to pay the fixed penalty within the time specified

Motor Vehicles (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, December 14, 1999

for the payment and subsequently appeal to the magistrate on the prescribed form. Where the court decides in favour of the appeal, the amount paid by him will be refunded. On the other hand, a person who does not pay the penalty in the belief that he has a good defence or fails to pay the penalty for whatever reason within the specified time, will still be required to appear before the magistrate by virtue of the fixed penalty notice which becomes a summons on the expiration of the time specified for its payment. The magistrate may, if he finds the offender guilty, impose a fine greater or less than the fixed penalty for the offence.

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

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

Mr. Vice-President, the proposed subsections 5(3), (5) and (6) would tidy up the existing provisions. The proposed subsection 5(4) would make it mandatory for payments to be accompanied by the relevant fixed penalty notice in an attempt to ensure that the clerk of the peace and the magistrate would have as much information as possible on the offence as well as the offender.

Clause 6 repeals and replaces section 7 and removes all references to existing roles for the licensing office and the district revenue office *vis-a-vis* the processing of payments and the making of returns on those payments. This would go towards remedying the deficiency which results in the relevant court gaining access in a timely, regular and sustained manner, the information regarding the payment of fixed penalties. Clause 6 would also preclude the listing for hearing in court of an offence deemed to be instituted by a notice unless the clerk is furnished with the information on the owner of the vehicle.

Clause 7 takes into consideration the introduction of a penalty point system for traffic offences under the Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill and empowers the President to amend the First Schedule to the Motor Vehicles and Road Traffic (Enforcement and Administration) Act which attaches penalty points of varying values to offences which attract fixed penalties.

Clause 8 would amend the First Schedule to increase fixed penalties.

Mr. Vice-President, I beg to move that the Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50, be now read a second time.

Question proposed.

10.45 a.m.

Sen. Nafeesa Mohammed: Mr. Vice-President, at the end of the hon. Attorney General's presentation, the speed at which he was going, I almost got lost in terms of the Bill that he was dealing with at that particular point in time. He made it sound so matter-of-fact.

These three Bills, which seek to bring about some changes in the whole system involving road traffic, road traffic offences and what have you, are Bills which, to a large extent, we on this side have no difficulties in supporting. We are prepared to support any measures that will bring about some improvement in terms of the road safety standards and, indeed, in terms of whether it be pedestrians or other motor vehicles, but generally road users. We are very concerned about what is happening throughout our country today. As we move around, most of us are drivers on a daily basis. I am sure that we would all agree that it is an almost frustrating experience at times when you see the way people are driving, when you see the condition of many vehicles on the road, and when you experience the type of congestion that exists on our roads today. They are very worrisome indeed. All of us would be concerned about ensuring that proper standards are maintained.

As the hon. Attorney General presented the Bills this morning, a lot of it sounded good, but we are in Trinidad and Tobago and one of the realities that we have to confront is the fact—*[Interruption]*

Mr. Maharaj: Not everything that sounds good is good.

Sen. N. Mohammed: That is it. Everything that sounds good may not necessarily work out in the interest of everybody, because we have to take cognizance of the fact that there are certain realities that exist in our society.

Motor Vehicles (Amdt.) Bill
[SEN. MOHAMMED]

Tuesday, December 14, 1999

Indeed, when it comes to matters pertaining to motor vehicles and road traffic, there are some harsh realities we have to confront, particularly with respect to the operations at the Licensing Authority. This new system that is being introduced with respect to the penalty point system, that in itself suggests that there is need to have a proper network, perhaps throughout the country, not just in our two main licensing offices in Port of Spain and San Fernando, if it is that we want this system to work. I am very concerned about the practical aspects of the proposed measures and how ready we are to implement a system like this.

Perhaps I should take the last of the Attorney General's Bills that dealt with the loopholes as they exist in terms of the magistrates or the Magistrates' Courts having to deal with tickets that have been issued. To a large extent, we have no great difficulties with this particular Bill, because it is a fact that many times someone would get a ticket and although it stipulates a time within which the fine should be paid and it also sets a date—in the event that the penalty is not paid—that one has to appear in court, we know for a fact that the practice in the courts is that these tickets are mere notices and not really summonses to appear in court. To actually ensure that this matter comes up in the court, that in itself is almost a nightmare. With these amendments here, it suggests that the tickets, which have been notices, would, in fact, now be treated as summonses to appear within a certain time period as well. If it is that it will make these matters easier to deal with in the Magistrates' Courts, well, we welcome these provisions.

At the back of this Bill there is a Schedule that stipulates the various offences, what the penalties are, and the penalty points to be awarded. I have been having some difficulties in linking this up because I think it was in the Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill—where it talked about the penalty point system—that these points would be linked to the new system that is being introduced. With respect to the question of the maximum number of points, I am still not too sure how it is established in the legislation.

Mr. Vice-President, I am having tremendous difficulties in having to speak on these Bills this morning because when you look at it, two of the Bills are seeking to amend Chap. 48:50 of our laws; that is the Motor Vehicles and Road Traffic Act. Why do we need two Bills? There could have been one Bill bringing about the necessary amendments. The third Bill that the hon. Attorney General presented is seeking to amend Chap. 48:52 of the laws of Trinidad and Tobago. It simply confirms and highlights the point I am making that whilst it sounds good, the question is: How is it going to work? More than that, there seems to be a problem with this particular Government, in the sense that, their approach to

dealing with problems in our country and our society is to bring Bills, more and more Bills, and if the rain falls too hard, they want to legislate for that as well.

The thing about it, Mr. Vice-President, three Bills to amend two Acts when perhaps all could have been in one or if not, at least in two. Look how ironic it is. These Bills are amending the Motor Vehicles and Road Traffic Act. They relate directly to the Licensing Authority which involves the Ministry of Works and Transportation. Where is the Minister of Works and Transportation today? Where is he?

On the previous occasions when we dealt with licensing matters or any matters pertaining to that particular division—I do not know—the Government commenced the debates on these Bills and they are left just hanging in mid air.

I remember the problems we had with the private garages and what have you. Perhaps that is why the Attorney General is here to try to help out in the situation. The reality of it, Mr. Vice-President—let me go back to the first Bill—I wish they were numbered differently so that, at least, in referring to them it would not be as difficult. In the first Bill, the hon. Attorney General spoke about creating a statutory offence of causing death by dangerous driving and to replace the existing offence of reckless or dangerous driving with the offence of dangerous driving.

Upon perusing this Bill, my first concern was the fact that it was in fact creating what in law is termed a strict liability offence. It is the mere act that has to be established and there is no link, really, with the mental element of the crime. I am not a criminal lawyer but it is a basic principle in criminal law, that to establish that a criminal offence has been committed one has to prove that there was an *actus reas* and there was some *mens rea* in it. There was that mental element in the crime.

10.55 a.m.

Now, when we are dealing with death caused by reckless or dangerous driving, it is all the more reason to look at the mental element of that particular offence. My first reaction was that in this Bill, they were actually disregarding or removing that mental element in terms of establishing that offence of dangerous driving, but I was relieved to hear the hon. Attorney General make mention of the fact that motor manslaughter would continue to exist as an offence, which suggests that a person, depending on his mental state, who may have caused the death of another individual, at least that person can be caught within the net.

Motor Vehicles (Amdt.) Bill
[SEN. MOHAMMED]

Tuesday, December 14, 1999

On the question of the stiffening of the penalties, in clause 3 of this Bill—this is the first Bill we are dealing with—it says here that section 70 of the Act is being amended and the penalties are being increased from, I think, \$2,000 to \$8,000, and there is an increase in the number of years as well. Now this section 70 in the Act actually relates to persons driving under the influence of alcohol and drugs.

You know, we are in the midst of the Christmas festivities and this is a time when, for a fact, many people would be on the roads after visiting friends and families, and there is a tendency to have a larger number of persons driving whilst under the influence of alcohol.

My concern is, would the mere stiffening of penalties actually bring about a change in this problem that we have in terms of the number of persons who tend to be on the roads driving vehicles whilst under the influence of alcohol and drugs? That, in itself, would not deter people. It is a whole cultural change that is required. You have to get into the ethos of the society and people's consciousness to bring about a greater awareness of the need to be much more careful when driving and, *moreso*, not to drive whilst under the influence of alcohol or drugs.

Besides, upon looking at the amendments here, I had to wonder: Do we have the breathalyzers in operation in our country? Do we have provisions in Trinidad and Tobago for the use of the breathalyzer test to determine whether a person is under the influence of alcohol or drugs upon committing some road traffic offence? Do we have it? I am not aware that we do, so that it comes across as a public relations exercise. That is why I have to be so cynical about this Government whenever they bring legislation like this. They are bringing it in large numbers and when you look at the realities of it, the basic systems that are necessary to have these provisions properly implemented and enforced do not exist in our country and these are things we need to put in place.

So that, coming to the Parliament and talking about stiffening the penalties for people who are found to be driving under the influence of alcohol and drugs, that in itself is not going to solve the problem. I am simply suggesting that some of these measures here seem to be a mere public relations exercise.

On the issue of the interpretation of dangerous driving, we heard that a similar system was introduced in the United Kingdom some time ago. It is a more objective test that is being used or will be used now to determine whether a person has been found to be driving dangerously. Even upon reading the interpretation of "driving dangerously", you still have to wonder. It indicates that

if the way in which he drives falls below what would be expected of a competent and careful driver—what is a competent and careful driver—and if it would be obvious to a competent and careful driver that driving in that way would be dangerous. The extent to which this would make any significance in the road situation, we have our doubts about it.

Mr. Vice-President, I would just move on very quickly to the second Bill, that is the one that seeks to establish a system of traffic wardens and to establish a penalty point system, the Motor Vehicles and Road Traffic (Amdt.) (No. 3) Bill.

Now, the idea of the traffic wardens sounds very good. In fact, it is very encouraging to hear that these traffic wardens would be people who, upon being appointed, would actually help to relieve some of our present police officers in terms of their ability to discharge other responsibilities, particularly when we have so many serious crimes that are plaguing our society. It is, indeed, a welcome provision.

When I looked at clause 3 of this Bill, and in talking about the appointment and functions of the traffic wardens, it says that:

“The Police Commissioner may...appoint by instrument in writing, any member of an organization or any person as a Traffic Warden...”

Does that mean that members of the United National Congress could be appointed as traffic wardens? I would like to know, because we in the People’s National Movement would like to have the opportunity to be appointed too. So the fact of the matter is that one would expect that in the appointment of these traffic wardens that steps would then be taken to ensure that these are people who are properly trained and who would have that ability to carry out the duties and functions that are being outlined here. Traffic wardens would have a certain amount of weight and power at their disposal. After all, they are doing work that our police officers are presently doing. I would like to know a bit more about that. In terms of the appointment of any member of an organization or any person as a traffic warden for the purpose of assisting the police, we believe that this is something which ought to be tightened up. You should be a bit more specific about this to ensure that properly trained persons would be appointed to discharge these responsibilities as traffic wardens.

Looking at the new section 86A(1), which is clause 3(3), it says here:

“Notwithstanding any written law, the Licensing Authority may suspend every driving permit for a period not exceeding six months...”

Motor Vehicles (Amdt.) Bill
[SEN. MOHAMMED]

Tuesday, December 14, 1999

At first I wondered about the Licensing Authority. Upon looking at the definition section, I take it this refers to the Licensing Division as we know it at Wrightson Road and San Fernando. In order to operate the system that is envisaged here, involving penalty points, it is obvious that one of the first requirements to make this system functional would be a proper, computerized networking system.

We heard some of the history behind this penalty points system where, I think the hon. Attorney General in the beginning of his presentation mentioned that in the 1960s in Trinidad and Tobago, there was, in fact, such a system existing and that, when the laminated cards were introduced some time in 1978, that system fell into disuse. I myself heard that previously, drivers' permits used to be in the form of a booklet so that if any traffic offences or convictions were recorded against you, it would have been endorsed in your booklet.

Now, I am wondering, with the reintroduction of this penalty point system, does it mean that we are going to get another booklet or do we stay with our laminated cards? If that is the case, it means, therefore, that it would be—

Sen. Prof. Spence: Mr. Vice-President, could I just point out that it is possible to put information on the laminated card. If you look at the present card there is a space for endorsement, so it is not difficult, even with the laminated card. You do not need to go back to a booklet to do that.

Sen. N. Mohammed: Thank you, Sen. Prof. Spence.

Even in looking at the laminated cards, even if there is space for it, we know that our drivers' permit, presently, are renewed every three years. Now, in order to have an endorsement, whether it is that you have had some previous convictions, or whatever, relating to a traffic offence, it means it is only when you go to renew that card that it can be endorsed. Even that, in order to keep tabs on these penalties or the points that have been awarded, the fact of the matter is that you need a proper networking system to make this thing operational.

Mr. Vice-President, although the hon. Minister of Works and Transport came into this Chamber and he talked and boasted about the plans to reform the Licensing Division and the introduction of new computers, I am not too sure that these new systems have been put in place. In fact, on the last occasion I visited the Licensing Authority, from my observations, the computers that were actually in operations there seemed to be the most archaic of all computer systems that you can find in any public department in the country. If it is that they have, in fact, modernized the system, so be it, then perhaps we may have some assurances that

the system would work. Then we are all concerned about the Y2K readiness of many of our government departments. What is going to happen? Are these computers Y2K ready? If they have any at all!

Mr. Vice-President, more than that—it is a pity the hon. Attorney General is not here at this moment—it is an issue that I have made mention of in this Chamber on more than one occasion and I am going to repeat it. For some years now, there has been a problem involving the availability and the information that is found in the certified copies of ownership and card copies of ownership of motor vehicles that are registered with the Licensing Authority. It is a fact.

I am sure the hon. Attorney General knows this, because when he was in private practice he would have been involved in many court matters where people's vehicles were taken away from them, being a suspected stolen vehicle. When the police seized these vehicles, they kept them for a year, two years, or three years, for some people it is going on and on and they cannot get back their vehicles. When you take stock, when you do your investigations, it is a fact that there are tremendous problems in terms of the information that you find on these card copies of ownership. Because of the stolen vehicle racket in Trinidad and Tobago that has been plaguing our country for many years now, especially since the start of the nineties, there has been some tampering of the records and information pertaining to the ownership of vehicles.

It is a problem that is affecting so many people in our country. Because you have your motor vehicle, it is carrying a particular registration number and, lo and behold, if you pull a card copy of ownership from the Licensing Authority, at times you can get information that is inconsistent—the engine and chassis number and the registration number may be different from what you have in your vehicle. Hence the reason, at times when the police, in discharging their responsibilities, if they have a roadblock, when they take stock and check the vehicle, very often and very innocently too, a person's vehicle may be seized from him on the grounds that it is a suspected stolen vehicle.

11.10 a.m.

The core of the problem has been with the records and information that are available at the Licensing Division. That is why it is important, if you are seeking to introduce a penalty point system, we need to be told how ready the Licensing Division is to implement a system of this type, because it suggests that it would be dependent on an improved, modern, and computerized system operational in the Licensing Division.

Motor Vehicles (Amdt.) Bill
[SEN. MOHAMMED]

Tuesday, December 14, 1999

If a penalty point is awarded, where is this going to be channelled? Is it just at the Port of Spain office and in San Fernando? If an offence is committed in a particular area or so, I do not know if, perhaps, there is going to be some system, whether it is through the Magistrates' Courts or how, that the information will, in fact, be recorded and then forwarded to the Licensing Authority. We would like to hear a bit more about how this system is going to operate, the practical aspects of it.

It is all well and good to say that you are bringing legislation and introducing a new system and that you are going to have a system of penalty points, it sounds good but we are concerned with the actual implementation of these measures. At the end of the day, we are all concerned about the safety of people on our roads and our motor vehicle drivers. It is a case where there is need for greater public awareness. I do not know to what extent people are reminded about the regulations or how to use the roads.

I remember when I was a student of law in Barbados, they had just opened a highway called the Spring Garden Highway, and for months on television, the radio and in the newspapers in Barbados they were educating the public on how to use that highway. Do we have any kind of public awareness programme going on in Trinidad and Tobago to remind our citizens about how they should be driving on our roads, in terms of signposts? Look around our country, it is a pathetic situation with signposts.

Just recently I was driving through a street in Tunapuna and there is a road that you are not supposed to turn in a particular direction, and the sign saying not to turn in that direction is actually facing the opposite direction. That is right by the new piece of road opened in Tunapuna where the UNC has been having its rallies in recent times. Mr. Vice-President, it is a situation where we need to bring about a greater consciousness in terms of our population; to be more conscious, more aware of how we should be using our roads, and conscious of how we drive our motor vehicles.

The condition of our vehicles—well, we can talk about that for the whole day. Sometimes you are on the road in the nighttime and you would see vehicles passing by with no lights in the back or front. I am very curious to know about what is happening with this new system involving private garages. The hon. Minister of Works and Transport came to this Parliament, and the Government has been boasting about setting up these new garages for the inspection of vehicles. How operational is this new system at present? We would like to know.

Are vehicles being inspected? If so, for how long? Give us an idea as to how many vehicles have been inspected so far throughout the country. I would like to know because people are driving vehicles that are in a very poor state and they are not fit to be on the road.

This is where we need the kind of tightening up, the enforcement aspects of it. We need to have things in place to ensure that the laws, rules and regulations are being enforced. We know that the Government cannot do everything, but it is better to be enforcing what you have than to keep introducing more and more layers of bureaucracy and what have you. We are very concerned about the implementation of some of these things.

Mr. Vice-President, I trust that the hon. Attorney General would be able to give us an idea about the readiness of the Licensing Authority to implement this new penalty point system and, certainly, to tell us more about what is happening with the system involving private garages and what have you. There are so many promises and statements that the Minister of Works and Transport has come into this Chamber and talked about. I remember the time he boasted about personalized number plates and no more long lines at the Licensing Authority. *[Interruption]* That is not true, Mr. Vice-President.

When you go to the Licensing Authority you still have to line up and sometimes it is three and four lines you have to go into. It took me three days to get a duplicate driver's permit not too long ago. The question of no more long lines was the basis they used in their budget statement, I think it was around 1997 or thereabouts, and they talked about paying at the pump and what have you. No more licensing fee, but now with the system of inspection of vehicles at the private garages, I wonder about the cost of having your vehicle inspected. We expressed these concerns at that time and we are expressing them again. In terms of getting your vehicles inspected, what is the position in terms of the cost aspect? How different is it from when you have to pay a licensing fee? *[Interruption]*

Sen. Kuei Tung: Is it your policy position that you want to bring back licence fees?

Sen. N. Mohammed: The hon. Minister is trying to raise a red herring. The fact of the matter is that you talked about no more long lines at the Licensing Authority, but the reality is, to this date, you still have to line up at the Licensing Division for whatever little matter for which you may go there, whether it is to have a vehicle transferred or to get a duplicate copy. Now, with these new procedures to have a penalty point system, it is the Licensing Authority that

would be determining these matters and would have the power to suspend your driver's permit. We would like to know in terms of the machinery that is in place, are other facilities going to be available? Tell us. So we expect that the lines would continue.

There was one other point; in talking about the introduction of a penalty point system, I am wondering what effect it would have or what link there would be in terms of a person's motor vehicle insurance policy. If it is that points are being awarded against a person with respect to some offences that are being committed, does it mean that can affect the premiums you pay with respect to your motor vehicle insurance? What is the link or position with respect to the insurance policies? Would it affect your no-claim discounts and what have you?

When it comes to the insurance issues, as usual that is another area of concern. When there was this talk about removing the licensing fee, one of the concerns that existed was the fact that a loophole was being created in the sense that there would have been no real system to verify that people are, in fact, taking out their motor vehicle insurance as they are required to do under the law. On an annual basis, in those days when you had to renew your licensing fee, in filling out the form you had to make reference to your insurance policy, to give the number and actually produce the policy. What has been happening since the removal of the licensing fee? What do you have in place to verify that people are duly insured, in terms of the use of motor vehicles on the roads, because so many accidents are taking place?

When death is caused by someone who is driving dangerously or however you may describe that person, whether reckless or careless driving, or what have you, in terms of compensation as a result of that death, whether to the family or whoever, it is a very serious situation. A motor vehicle insurance is some way of assisting in the situation, so we need to know what is in place.

Look at the situation involving maxi taxis. That is why I mentioned that it is a change in our culture that is required. When you drive on the roads and you see the manner in which people are driving, it is a frightening situation, particularly if you are driving behind a maxi taxi or a taxi driver, because these are people who are hustling to make a living. They are hustling to make a dollar. The fact of the matter is, the way they would stop on the road or come out, it is a very dangerous situation.

Then there is the large number of vehicles. It is this Government who opened up the country with the foreign used vehicles and on a daily basis now you are

seeing the congestion all over. Even in the most minor of roads you will find congestion. So we need to do things in a way that will bring about real change, Mr. Vice-President. We need to re-orient our thinking; to become more conscious and mindful of the way we use our roads and the way in which we drive our motor vehicles. I would hope that in terms of the introduction of any new system designed to deal with motor vehicles and road traffic and so forth that there would be efforts to educate the public, to bring about a greater public awareness of what are the new requirements.

Thank you, Mr. Vice-President, for giving me the opportunity to speak.

Sen. Rev. Daniel Teelucksingh: Thank you, Mr. Vice-President, I rise to support the Bills before us. I am very much concerned, as so many others, about the phenomenal increase of vehicles on our roads in Trinidad and Tobago. What is it—an estimated 15,000 per year? It is a nightmare being on any of the main highways in Trinidad. Coming to Port of Spain, getting back home and not at Christmas time only but at anytime at all, it is really a nightmare.

At the same time, in addition to all these vehicles added to what we already have on the roads, every year the increase in road fatalities is definitely a source of great concern and, hence, I believe that these pieces of legislation before us are timely, quite in order and commendable. Nevertheless, I believe that the contentious clause 4, section 71(1) in the Motor Vehicles and Road Traffic (Amdt.) (No. 2) Bill which talks about the penalty for causing death through reckless, dangerous and negligent driving, the imprisonment for 15 years and disqualification from holding a driver's permit for five years, is too lenient. We are not talking about the accident caused on the road accidentally, but those caused through reckless, dangerous and negligent driving.

I believe that it is a kind of murder; that is what it means. I believe that the disqualification from holding a driver's permit should not be for five years but may be increased to about 15 or 20 years. That is what I believe concerning that particular clause 4, section 71(1). Oh, there is a little section in that clause 4 which says that there would be permanent disqualification from holding a driving permit if there is a second offence. You have to kill two persons, that is what it means. I believe that penalty even for the first offence is too lenient.

Mr. Vice-President, I like the idea of traffic wardens, but I believe that we need traffic wardens on the highways. We really need more highway patrols and, in the meantime, we should have more regular police patrols on our highways while we are sorting out the whole business of the installation, selection and

Motor Vehicles (Amdt.) Bill
[SEN. REV. TEELUCKSINGH]

Tuesday, December 14, 1999

training of traffic wardens. I heard the hon. Attorney General talk about the need for the services of police officers other than being on the road. It grieves me to see a police officer driving around in a wrecker. I really feel that the wrecker system is primitive. I cannot see, for the life of me, a policeman sitting in a wrecker and serious things are happening in the town and cities of Trinidad and Tobago! I agree with the hon. Attorney General that the services of police officers are needed in other areas of social life and so forth.

11.25 a.m.

I believe that we should scrap the primitive wrecker system for wrongful parking. It is high time that we introduce parking metres in our cities and towns. Why can we not extend the penalty point system for illegal parking instead of the wrecker system? It would be interesting, you know, to know what is Government's part of the wrecker service fee. I understand it is negligible. Government gets very little for that, maybe not even enough at the end of any one day to pay the policeman.

I feel very disappointed that in these Bills no reference is made to driving under the influence of alcohol. Previous speakers made mention of this and about this Government, but what about the past administration? For the longest while the last administration, the one prior to that and this one also have been talking about the breathalyser. We need the breathalyser, I agree with that, and I have been looking through these Bills for any reference at all to those who use alcohol and decide to manoeuvre vehicles on our roads. I think we need special legislation for that.

Mr. Vice-President, have you seen on some of our highways sometimes, especially under the flyovers, very common in Trinidad—the last speaker spoke about a culture. We have a culture—car trunks opened under these highways and fellas with cups and bottles—I do not think they are changing tyres anyhow—and the policeman passes. The patrols are there. That is part of our culture. We do not drink enough in our bars so the Government has already amended the law enabling bars to be opened on Sundays, public holidays and religious days. That is one of the achievements of Government within the last few years.

Despite all this, we find people passing all those bars that are open on a Sunday and public holiday, stopping on the highway, opening their car trunks and having a party there. Certainly, after that activity somebody is going to drive and continue his or her journey. I would not want to say what they are drinking but I would not rule out the role and place of alcohol in road fatalities in Trinidad and

Tobago, [*Desk thumping*] therefore I consider this to be a serious omission in the legislation before us. However, even defective or limited as they are, I lend my support to these Bills. Thank you very much, Sir. [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): [*Desk thumping*] Mr. Vice-President, I have learned that when I am coming with a Bill or Bills in this Senate, as far as the Opposition is concerned I know exactly what they are going to say. They are going to say, “Do not pass law”, “Leave the matters as they are”, “Let there be a standstill because there would be a problem of implementation”, “The work is too hard to implement”. It is the same recurring decimal over and over. As a matter of fact, Mr. Vice-President, I think Sen. Nafeesa Mohammed’s contributions for the whole year, with the greatest respect to her, if she takes them and she reads them, she will see that she has been saying the same thing for the whole year. I think it is an admission that the driver cannot drive. [*Laughter*]

Here it is, Mr. Vice-President, we have these three measures which one is not saying are going to be easy to implement perfectly. For no law that is passed will there be perfect implementation. In no country would there be perfect implementation. As a matter of fact, what she has said reflects so much how the PNM operates. Let me show this honourable Senate, Mr. Vice-President. In 1993 it was recognized by the PNM administration that this was a major problem in Trinidad and Tobago. What happened? In 1993, the then Minister of Works and Transport took a note to Cabinet. I have the note here.

What are contained in these Bills, quite apart from the Bill dealing with causing death by dangerous driving, are, in effect, measures to which the Minister was begging Cabinet to agree. The matters that Cabinet had to consider were the proposal to amend certain sections of the motor vehicle legislation to strengthen the existing ticket system in the country and to introduce an updated point system in which points are awarded to motorists for traffic offences. Then, when it was dealing with the ticket system, in his note he showed how inadequate the system has been and he asked for it to be reformed. Then he went on in his note to recommend that there should be the enforcement of the law, and that there should be, quite apart from the point system, something more to enforce the law.

Those recommendations, Mr. Vice-President, went to a committee called the Finance and General Purposes Committee of Cabinet in 1994. So it went to Cabinet in 1993 and it went to the committee in 1994. Up to when the elections were called, nothing happened with it. All that happened was that it was noted and considered. As a matter of fact, there is a report—I have it somewhere here if I

Motor Vehicles (Amdt.) Bill

Tuesday, December 14, 1999

[HON. R. L. MAHARAJ]

can find it—also in 1993, dealing with this system. In September 1995, because the then government was also considering having a traffic warden system as part of this measure, it was not until 1995 they got a report on the traffic warden system in Trinidad and Tobago.

So these Bills are attempting to implement, in effect, what is recognized as long overdue and there is no politics in this. We cannot get votes with this. This is nothing with which to get votes. This is a case in which these measures are to strengthen, in effect, the legal framework in order to make drivers who are using the roads know that the law would be able to deal with them. This is what this is about. Traffic wardens would, in effect, relieve the police from doing the traffic work and there would be more traffic patrols on the highways, and this is a good thing.

Whichever government does this, it is a good thing for the country. So why do we have all this politics in everything that we do? As a matter of fact—*[Interruption]* I am politicking now. Mr. Vice-President, there are no votes in here. The only votes I have here would be if Sen. Nafeesa Mohammed wants to come on this side. *[Desk thumping]* *[Laughter]* Mr. Vice-President, her family is noted for that. As a matter of fact, at one time they are on that side and then they come on this side. So there is no vote in that.

Mr. Vice-President, what the Minister of Works and Transport did is that, in order to implement these measures, he put in place a project management team for the implementation of the point system and the traffic warden system. The project management team comprised the Chief Planning Officer or his representative, the Chief Traffic Engineer, the Transport Commissioner and the Assistant Commissioner of Police with responsibility for traffic. The project management team is to be serviced by appropriate secretarial and support staff on assignment from within the public service. There would be employment on contract of personnel to service the traffic warden system in order to ensure that it works well. The Ministry of National Security is to delegate one inspector and one sergeant with experience in enforcement of traffic laws to assist the Ministry of Works and Transport in implementing this system.

The Cabinet, in approving these measures, also approved machinery so that we would have that machinery in place in order to implement the system. As a matter of fact, Mr. Vice-President, already there has been a team examining all the issues concerned with the effectiveness of this system and making recommendations to determine how this system is going to be implemented as far

as the traffic warden system is concerned. There is a report on that and the Ministry of Works and Transport is really on top of all these matters. Once the traffic warden system is given legal status, this team obviously would have greater say in the implementation. So, I do not think that there can be any doubt that what we are trying to legislate here is something that is in the interest of the country and it is something that is long overdue.

One of the points raised with respect to alcohol by Sen. Rev. Teelucksingh is a point that is well taken. I think it can be said that one of the major causes of road accidents is the use of alcohol and although, under the existing law, there is provision where people found to be driving under the influence of alcohol can be prosecuted, the mechanism for detecting and prosecuting that offence is not very adequate. In this regard, the Cabinet has approved, in principle, breathalyser legislation and that is now before the Cabinet committee which is working out some fine points and machinery for the implementation of that proposed legislation. That Bill should have come with these Bills but did not because of the machinery for implementation that we wanted to announce at the same time. So that, within a month we will have that piece of legislation.

Sen. Nafeesa Mohammed made very heavy weather of the fact that these are three Bills when they should have been two. Well, I am very sorry if there is an extra Bill but what happened, Mr. Vice-President, is that in respect of the first amendment, that was a matter in which the Director of Public Prosecutions, by letter dated December 17, 1998, requested that the matter be dealt with urgently and we started drafting that piece of legislation first. It was done and, therefore, when the other matters had to be done it meant that we could have drafted it and both could be taken at the same time. As a matter of fact, when all these are done and the Bills are being revised, we would not have three pieces, all would be in a revised piece of legislation but, with the greatest respect, I do not think that is of any substance. So, Mr. Vice-President, I will deal with some of the—

Sen. Mohammed: One of the issues I raised is the question of the status regarding the updating of the computer systems at the Licensing Division. Would you please tell us something more about that?

Hon. R. L. Maharaj: From the information I have had, but I do not know all the details of it, I think it is being computerized. I am glad you reminded me. I think one of the matters in which—I am sorry the Minister of Works and Transport is not here but we had already fixed this debate. All that I can say is that I will mention to the Minister of Works and Transport that he should give you all the information, but I understand that the computerization process is already

Motor Vehicles (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, December 14, 1999

underway. So that when a vehicle is stopped and the police officer gets the number, he or she would be able to get all the information about that vehicle. I understand that is on the way to being perfected.

There were many things said about private garages, *et cetera*, but I am sure that the hon. Senator knows that if she really wants to find out about that she can ask a question in the Parliament and she can even file a motion. If it is of such great importance to the Opposition to know about these matters and if it will have so much influence in a Bill like this, I know that she can file a motion or ask a question. However, I am sure that if the Minister of Works and Transport was here he would be able to answer it.

So, Mr. Vice-President, I beg to move, That a Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50—(No. 2)—be read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

11.40 a.m.

Senate in committee.

Mr. Chairman: Just to make the point that the Bill we are dealing with is the No. 2. That is the one before the Committee right now. It comprises seven clauses.

Clauses 1 to 3 ordered to stand part of the Bill.
Clause 4.

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

Sen. Rev. Teelucksingh: Thank you. Is this the one about the cause of death being dangerous driving?

Mr. Chairman: It is the amendment to section 71.

Sen. Rev. Teelucksingh: I am looking at section 71(2) and the disqualification for a period of five years. I wonder if the hon. Attorney General would consider increasing that because it is death. Causing death is not an ordinary accident, because death is caused through dangerous, reckless driving and I think that the disqualification here, instead of waiting for a second death, should be more than five years. Thank you.

Mr. Maharaj: According to that clause:

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

So he is getting 15 years and a person convicted of an offence would get a disqualification for a period of five years.

Sen. Rev. Teelucksingh: I will say 15 years when he comes out. I think this is the idea. When he comes out, he will be disqualified for five years.

Sen. Dr. Mc Kenzie: That is right.

Sen. Rev. Teelucksingh: He cannot drive for 10 to 15 years; not five.

Sen. Dr. Mc Kenzie: Yes. Because he cannot drive in jail. Twenty years; it should be 15 plus the 5.

Sen. Rev. Teelucksingh: In any case, he is in prison. Now, he is back in society, he has a further responsibility. I would add beyond that.

Sen. Dr. Mc Kenzie: Because, Mr. Chairman, he is really not disqualified if the five years come within the 15 years. He is not disqualified at all. He should not drive again.

Mr. Maharaj: If the Senate feels that way, I would go along.

Sen. Mahabir-Wyatt: Mr. Chairman, I feel it is a bit drastic. There are instances where it is not the fault of the driver. It could be something wrong with the car.

Sen. Dr. Mc Kenzie: No. No. It is dangerous driving. It is qualified.

Mr. Maharaj: This is the one where he really should not be driving. It is his fault. He should not be driving.

Sen. Rev. Teelucksingh: I would settle for 10.

Sen. Mahabir-Wyatt: I still think that disqualification for life is somewhat drastic.

Sen. Dr. Mc Kenzie: We are not saying life.

Sen. Rev. Teelucksingh: Ten years.

Sen. Mahabir-Wyatt: Okay. The last I heard was life.

Mr. Maharaj: But 15 years is probably something that we can go with, in that the person has been in prison. The maximum is 15 years and the court may not give him 15 years; the court may give him 10 years, but at least he may be disqualified for 15 years.

Sen. Prof. Spence: Mr. Chairman, does this period of 15 years start after the imprisonment? That is what I am unclear of.

Mr. Maharaj: No. It is from the date of conviction. The 15 years is from the date of conviction.

Sen. Prof. Spence: So, if the period is less than the period of imprisonment, there is no effect.

Mr. Maharaj: No. The conviction is up to 15 years. It does not necessarily mean that the court would give him 15 years, so that if he is jailed for five years and they gave only the maximum, it will be five years' disqualification. So, in effect, what would happen is, when he comes out of jail, he can drive. The point you are making is that you want the disqualification to also match the period of imprisonment so that the court will have the power to give him a jail term but, also, to give him a longer disqualification period.

Sen. Dr. Mc Kenzie: Mr. Chairman, my point is that the jail term and the disqualification must not be, according to the legal term, concurrent. They must not run together, otherwise the disqualification has no effect. The man or the woman is in jail; he or she cannot drive. At least, they are not supposed to drive except they are running away as they are all running away from the jail.

Mr. Maharaj: Why do we not draft it in such a way that it will be five years from the date of his or her release? Liable to be convicted. Or, alternatively, what we could do is put it for the 15 years and 15 years, and give the court the power to determine whether he or she will be given five years' imprisonment and 15 years' disqualification. I will accept what Sen. Rev. Teelucksingh said about changing the period from five years to 15 years.

Mr. Chairman: Okay, we have an amendment in clause 4 to the new section 71(2) by altering the word "five" in line 4 to "fifteen".

Sen. Mohammed: Can I just ask the hon. Attorney General a general question. In terms of the fixing of penalties, is there some criteria or some guidelines used in determining these matters?

Mr. Maharaj: I think you know, as I do, that there has been much criticism about the sentencing and the inconsistency in sentencing. That is why in another measure I announced that what some countries have done is to establish what is called a sentencing commission in which the Judiciary is involved, but also the public and the legal profession are involved. Therefore, they then analyze it and give recommendations for guidelines. That Bill is also coming shortly. But, you need something like that because what happens is, a magistrate or a judge just decides to give a bond; he or she does not give imprisonment; it is out of a hat sometimes and members of the public have expressed, over the last 10 years, great dissatisfaction about some of these sentences.

Sen. Mohammed: Just as we are doing now.

Mr. Chairman: Back to the suggested amendment—"fifteen" in place of "five". Any comments?

Question put and agreed to.

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

Clauses 5 to 7 ordered to stand part of the Bill.

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

Senate resumed.

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

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) (NO. 3) BILL

Order for second reading read.

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

That a Bill to amend the Motor Vehicles and Road Traffic Act, Chap 48:50, be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: This is a Bill with three clauses.

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

Clause 3.

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

Mr. Maharaj: There are amendments circulated.

Mr. Chairman: Well, I do not have them. We are on clause 3 and there are amendments to be circulated.

11.55 a.m.

Mr. Maharaj: It does not change the policy. It is just to do with the drafting.

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

- A. In paragraph (a), insert before the words “by inserting”, the words “in section 2”.
- B. In paragraph (a), in the proposed section 10A(b)(ii), delete the words “Transport Commissioner” and substitute the words “Licensing Authority”.
- C. In paragraph (c), delete the proposed section 86A(1) and substitute the following:

“(1) Notwithstanding any other written law, the Licensing Authority may suspend for a period not exceeding six months, every driving permit issued under this Act to a person where the person’s record as a driver of motor vehicles or his conduct or habits as a driver establishes that it would not be in the interests of the public safety for him to hold a driving permit issued under this Act or that the person is not competent to drive a motor vehicle.”
- D. In the proposed section 86A(8), insert after the words “section 5 of that Act”, the words “except that a person who appeals a fixed penalty in accordance with section 3(7) of the Motor Vehicles and Road Traffic (Enforcement and Administration) Act, shall not be deemed to have committed the offence until the appeal has been adjudicated against him.”
- E. Delete the proposed section 86C and substitute the following:

Surrender and
return of
driving permit

86C. (1) The Licensing Authority shall, upon suspending a driving permit under section 86A, require the person concerned to surrender the driving permit to the Licensing Authority.

(2) Any person whose driving permit has been suspended under section 86A shall forthwith surrender the driving permit to the Licensing Authority on request pursuant to subsection (1).

(3) Subject to a decision of the Court following an appeal referred to in section 86B(4), a driving permit suspended by the Licensing Authority shall be of no effect and a person whose permit is so suspended shall, during the period of such suspension be disqualified for obtaining a driving permit.

(4) At the expiration of the period of suspension, the Licensing Authority shall forthwith return the driving permit to the holder thereof and the points awarded against him shall be cancelled.”

Question put and agreed to.

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

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

Senate resumed.

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

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

Order for second reading read.

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

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

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 3.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 3 be amended as follows:

In paragraph (b), delete the definition of “driving permit”.

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.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 4 be amended as follows:

“In paragraph (c)(i), insert between the words “complaint” and “against”, the words “will be made”.

Question put and agreed to.

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

Clause 5.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 5 be amended as follows:

In the proposed section 5(3) insert between the words “within” and “the”, the word “which”.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

12.10 p.m.*Clause 6.*

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 6 be amended as follows:

“In the proposed section 7(b), delete the words “Transport Commissioner and insert the words “Licensing Authority”

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

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

Mr. Chairman: There is an amendment to clause 7 circulated, introducing new words to section 11(3).

Mr. Maharaj: Mr. Chairman, I beg to move that clause 7 be amended as follows:

“Delete the proposed section 11(3) and substitute the following:

(3) In relation to the system of awarding penalty points referred to in section 86A(2) of the Motor Vehicles and Road Traffic Act, the President may alter the number of penalty points for any offence so however that the penalty points for any offence do not exceed thirty points.”

Question put and agreed to.

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

Clause 8 ordered to stand part of the Bill.

First Schedule.

Question proposed, That the First Schedule stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that the First Schedule be amended as follows:

“In paragraph 7, delete the words “\$600.00” and substitute the words “\$200.00”.

Question put and agreed to.

First Schedule, as amended, ordered to stand part of the Bill.

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

Senate resumed.

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

Mr. Vice-President: This may be a convenient point to take our lunch break. It is now 12.15 p.m. We will suspend the sitting for lunch and resume at 1.30 p.m.

12.15 p.m.: *Sitting suspended.*

1.28 p.m.: *Sitting resumed.*

MINIMUM WAGES (AMDT.) BILL

[Second day]

Order read for resuming adjourned debate on question [December 8, 1999]:

That the Bill be now read a second time.

Question again proposed.

Sen. Diana Mahabir-Wyatt: Mr. Vice-President last week Wednesday when the Minister of Labour and Co-operatives introduced the Bill, he made a point of mentioning, and I quote from the *Hansard* of that day, that:

“The proposed amendments contained in this Bill would correct some of the deficiencies in the present legislation.”

He went on to say that:

“The amendments proposed in this Bill would allow for the enforcement of the Minimum Wages Orders that applied to domestic workers and other workers, as well, who are not deemed to be workers under the Industrial Relations Act. As you are aware, domestic workers were historically excluded from the category of worker under the Industrial Relations Act. This exclusion worked to their disadvantage. They were denied any opportunity to state their case or seek redress in the Industrial Court.”

I am quoting his statement, Mr. Vice-President, because I want to be very clear as to what the position is in relation to domestic workers under the amending Bill as well as under the Minimum Wages Act, because, he went on to say that:

“I am sure Mrs. Walcott would be pleased this evening to note that, as a first step, the Government is proposing that domestic workers be allowed to report to the Ministry of Labour and Co-operatives any infringement of the Minimum Wages Act and the sister legislation, the Maternity Benefits Protection Act. It is a first step.”

Mr. Vice-President, when I look at the Minimum Wages (Amdt.) Bill, 1999, I cannot see anything that limits the application by a worker, who happens to be a domestic worker, to merely sending a report to the Ministry of Labour and Co-operatives. The Minimum Wages (Amdt.) Bill, as I read it, does empower individual workers and workers through their unions to take up matters where they feel that they are not being paid the correct minimum wage.

In clause 6 of the Bill, which seeks to amend section 22A(2), when the Minister gets a report that has been submitted to him through an authorized officer who has carried out an inspection:

“...the Minister may, treat such a breach as though it were a trade dispute subject to the provisions of the Industrial Relations Act or refer the subject matter of the breach directly to the Industrial Court for determination.”

Mr. Vice-President, I cannot see anywhere here where this limits domestic workers to just taking something to the Ministry of Labour and Co-operatives. As I read this, it is entirely up to the Minister of Labour and Co-operatives whether he treats domestic workers as any other worker or whether he limits them to a dispute in the Ministry of Labour and Co-operatives as a first step. I would like the Minister, in his response, to make this matter very clear, because I think it is important that we become a little more gender sensitive when it comes to matters of employment. This is one of the areas—and there are other areas dealing with the Industrial Court—that I think lack a certain amount of sensitivity as well.

Last week or the week before the Ministry of the Attorney General and Legal Affairs laid on the table the *Third and Fourth Periodic Report of the Republic of Trinidad and Tobago in relation to the International Covenant on Civil and Political Rights*. On pages 12 and 13 of this report, we get some statistics in relation to the position of women in Trinidad and Tobago. The statistics include not only representation in the work force, but also representation in such judicial decision-making bodies as the Judiciary, the Court of Appeal, High Court judges, magistrates and of course, we also have women judges in the Industrial Court.

Now, I would like to make a point here. According to this report, the labour force data on table 62 in relation to men and women show that every year the

Minimum Wages (Amdt.) Bill
[SEN. MAHABIR-WYATT]

Tuesday, December 14, 1999

percentage of women in the labour force rises somewhat. These are the figures for 1998. At the present time, out of a total labour force of 558,000, there are 214,100 women in the official labour force and there are 40,000 unemployed women. This brings the number of women in the labour force to over 40 per cent, if you count both figures together. Forty per cent of the labour force is a substantial amount.

When it comes to minimum wages, I do not think that it needs arguing that the majority of workers who are paid at or below minimum wages are female, this just happens to be a matter of fact which I think is pretty well accepted. It is more likely with the lowest paid workers, the majority of whom are female, that intimidation is likely to take place and non-observance of this particular Bill is likely to take place. Therefore, that makes it a gender issue. When these issues go to the Industrial Court, once this Bill is passed, it becomes just one of a number of other gender issues that are likely to go to the Industrial Court. These are gender issues arising out of employment. One of the most obvious has to do with maternity protection and that, I think, is an issue which has to be looked at on a number of levels.

While we have the Maternity Protection Act now, it is quite out of sync with the existence of that Act. For example, women who are Members of Parliament who are of childbearing years are not covered by the Maternity Protection Act in relation to their employment in Parliament, which I will take up on another level. It is almost as though it was never contemplated that women would be Members of Parliament to begin with, and if they were going to be Members of Parliament, heaven forbid that they should be young enough to have children—and as we have several around who are—it was never contemplated that if they were young enough to have children that they would ever do something so outrageous. *[Laughter]* Therefore, it has never been included in the terms and conditions of people in Parliament. As I say, I intend to raise this on another level.

There are also issues which will go to the Industrial Court which deal with accidents and safety—well, if I am talking about Parliament, and you talk about accident and safety, all you have to do is look around the Red House and wonder how the largely female staff survive—but there are other issues as well that deal with security, which are particularly sensitive to women. Because women having to work late hours after dark are at far greater risk than men are. *[Desk thumping]* The matter of transportation—just general security. Then there are other matters which are more often now going to the Industrial Court, including sexual harassment.

When I look at the report on the International Covenant on Civil and Political Rights, I notice that in the Judiciary, females comprised 2 out of 8 Court of Appeal judges, 2 out of 8, I suppose we should be grateful that we should be saying that is not bad, but it is at the same time when we do find more women than men lawyers coming out into the system; 4 women out of 22 High Court judges, which, again is a very low ratio. In the Industrial Court, I cannot remember offhand how many Industrial Court judges we have. I think we have about 12. Well, we have 4 women out of 12 Industrial Court judges. *[Interruption]* While we have virtually 40 per cent of the work force as women and only 4 women judges and, as was just pointed out, two of them have had their contracts terminated for no discernable reasons, both, as far as I know, extremely competent people. The new additions to the Industrial Court are the opposite gender.

I am not saying that men cannot make competent judgements when it comes to trade disputes involving women, but I think there is a certain amount of gender sensitivity, particularly when you get into the sorts of cases that we are talking about here. One of these, as I mentioned, is sexual harassment, security, *et cetera*, but others have to do with minimum wages. The workload that is now going to come onto the Industrial Court, is going to largely, I suspect, involve women workers who, in addition to not being paid what they are supposed to be paid by minimum wages—because we all know that the majority of cases where this happens are female—very often it is accompanied by sexual harassment.

At this time, the hon. Minister of Labour and Co-operatives, for reasons known only to himself, is presiding over a system where they are withdrawing the number of women judges in the Industrial Court and it does seem to be highly suspect, to say the least. It is discourteous as well as suspect.

It is, to me, not separated from the stance which the Minister of Labour and Co-operatives took in relation to domestic employees. I would like to get some reassurance on this, because, it seems to me that it behoves us to treat all workers as workers if we are going to talk about minimum wages, and all workers should have equal rights. While the International Covenant on Civil and Political Rights—and this is a civil right—as published by the Ministry of the Attorney General and Legal Affairs, tries to persuade the country and the relevant human rights organizations that women have got equal rights with men under the international covenants, it does seem to me that this lack of sensitivity where it comes to gender issues in labour matters needs to be looked at. I am not arguing for a quota system, although there is nothing wrong with that, but I do think that

Minimum Wages (Amdt.) Bill
[SEN. MAHABIR-WYATT]

Tuesday, December 14, 1999

in many instances we have labour legislation which is not gender sensitive and it should take into account the differing needs of men and women because our situation is not equal.

We spent hours last week arguing the Sexual Offences Bill, and it is not a matter of conjecture that 95 per cent of sexual abuses and/or domestic violence abuses are committed against women, and that these are becoming more and more common in the workplace as well as outside the workplace. I think that when we have a sector of the population particularly at risk we have got to take this into consideration because 50 per cent of the women who are subject to domestic violence also work. Therefore, these issues do come up, they do affect people's ability to work, they affect the economic and civil life of the country, and I am looking forward to a greater emphasis on gender sensitivity.

When it comes to legislation, we are going to have the Occupational Safety and Health Bill coming up soon. I hope the Minister will be bringing that back at the appropriate time. That is an issue where we have got to look also at gender sensitivity because it is important. Where disputes arise out of these acts they will end up in the Industrial Court and, therefore, I do not think that it is an irrational or illogical request that this gender sensitivity extend to the composition of the court.

Thank you, Mr. Vice-President.

1.45 p.m.

Sen. Muhummad Shabazz: Mr. Vice-President, in any event we can only support the Minimum Wage (Amdt.) Bill, because we understand that people should be paid properly for work done. So when we look at this Bill, indeed, we feel and we know that it is a step in the right direction to ensure that there is some type of minimum wage for workers in this country.

We are concerned with certain things in the Bill too. As a matter of fact, what does the Bill seek to do? It seeks, one, to transfer matters from the Magistrates' Court to the Industrial Court; to ensure that domestic workers are brought into the picture and will get some type of justice for the work that they do; and fines for employers. The main thing is to ensure that workers are not victimized.

One of the things that touches me and that we understand, is that in transferring from the Magistrates' Court to the Industrial Court we do not think, knowing how the Industrial Court is, that it would be far better for the workers, as far as administration and getting redress very quickly for these people is

concerned. We know the situation with the Industrial Court. We know what is happening over there. There are cases there for over 30 years, 15 years, 12 years and nothing is happening with them. If this Government is really serious about the Industrial Court—*[Interruption]*

Sen. John: Mr. Vice-President, I would like the hon. Senator to disclose what cases have been there for over 30 years.

Sen. M. Shabazz: If the hon. Senator would be a little patient, I will do all that in my contribution. I ask him to just be a little patient. There are cases in the Industrial Court for very long periods. We have a case of Public Transport Service Corporation 1966, it was under President Hyatali that went to judgement and judgement has been reserved to this day. It was a situation where the workers were asking for \$3.00 because they were keeping tickets in their lockers. They had a key and management had a key and they were asking for \$3.00. Since that time, judgement has still not been given in this case, and we know that. I personally had an industrial matter four years ago, it still has not reached to the Industrial Court as yet because the union has to talk to this one, and we know the position.

We on this side are asking if the Government could straighten that situation out with the Industrial Court. They came with many legal minded people and labour people. You too, Sen. John, are a labour person. You came here in this Government with the hope that many of these problems would have been straightened out. It is over four years since you have been in power and nothing has been done.

I want you to understand what happens when you have to go to the Industrial Court. The poor domestic worker who is going to look for some redress, the worker whom you are saying that you want to put in a better position, if he has to wait for three, four, or five years in the Industrial Court he would simply walk away and give up. Which unemployed poor worker whom you are seeking to put in a better position could fight an employer for three or four years and wait until he or she gets some kind of compensation? By the time that person gets that compensation, the cost of living and everything else would be in such a tight position that maybe it does not make sense fighting the employer.

I am not totally blaming the Government; I am blaming the whole system in which we live. I am not blaming any government for that, but you have it in your hands and you came with the promise that you would ensure it was corrected, that you would ensure that proper things happen for the workers, and you have spent

Minimum Wages (Amdt.) Bill
[SEN. SHABAZZ]

Tuesday, December 14, 1999

four years just bringing bills, but not implementing the things which you have brought in the bills. [*Desk thumping*] That is the truth; that is the reality.

So what we are saying is that the workers cannot afford to take that pressure; you have to do something about that. Put the infrastructure in place; try to quicken it up. Get a special court or a special judge to deal with matters of this nature to ensure that it will work faster. You must understand how this system operates. Let me just concentrate a little on the domestic workers. Mr. Vice-President, I heard the hon. Minister congratulating Miss Walcott for the good job she has done and continues to do. We on this side offer the same congratulations. We know how hard she has been working and that she will continue to work hard, and that the group she heads will also continue to work hard. We understand that. But their problems are not only government problems. There are problems they are having with employers that are very difficult to solve.

If you tell a domestic worker to report a boss and this worker cooks for the boss, I do not know how you are going to get that person to hold on to the job. That is the problem to which the Minister alluded when he spoke about some workers suffering silently. They sign one wage book for one wage and then sign another one for receiving another wage. The employers give them a smaller wage and make them sign for it, and make them also sign for the bigger wage. He called it something like the Columbus Policy, where they show one book to the labour people and they have another book. They do it in all instances. How does the Minister propose to handle that?

He spoke about getting the Labour Inspectorate out there. I would like the hon. Minister to tell us how many people belong to this Labour Inspectorate? He spoke in glowing terms. He said that they would set them up throughout the country, in Mayaro and all the different places that he called. What is the position with the Labour Inspectorate? Could you get that infrastructure in place to ensure that the Labour Inspectorate would be there to do the work and to follow up when things happen? So, again, you are bringing a Bill and you have not put the proper infrastructure in place.

What is going to happen? The Minister must be aware that the last time this Bill was passed that people were saying to the domestic workers, "Well, yuh does eat here, so you have to pay for lunch, we will deduct that from your salary." That is the complaint. People were saying, "Well, you are living here now so you have to pay a rent." People were telling their workers, "You are working eight hours, but you get one hour for lunch, so we are not paying for the lunch hour."

Did he look into these things? Did he come back here having done a proper study of that and knowing what to tell the very people he wants to help, how he is going to help them?

How many people lost their jobs when this Order came about? How many employers said to people, "Well listen, you know the minimum wage is \$7.00 so what we will now do, you are working eight hours a day we will cut you down to four hours a day." How many people lost hours and had to take less money or take the same amount of money. These are the things that he should have studied and he should look at. These are the things we are asking you to work on as a Government which claims to be a labour government that has so many trade union leaders on your side, to ensure that it is corrected.

Many of you would tell us, "Oh, the PNM was here for 30 years," that is a favourite line of the hon. Minister of Public Administration, Sir. He says it all the time, "You were here for 38 years, 43 years, what did you do?" We have said that we did a lot, but what have you done? What are you doing? It is in your hands to do. When we look at their nonperformance, it makes it stronger for us to do more when we come into power next year? [*Desk thumping*] We must do more. That is where they would go and they always continue to go there. They seem to always take the blame off themselves.

It is a government that we must understand, Sir. They look at what we do and they argue. They talk about unemployment in the country. We travelled around the world, not to the large extent that they are travelling, but we were looking to open new markets, to find better benefits for Trinidad and Tobago, for employment to raise the wages, and they said all kinds of things. Today, they are now telling us, "Well, when you see ministers and Prime Ministers travelling we are looking for open markets." Just to make an excuse. That is what we were telling them, and they have travelled 10 times as much as we and have not found twice as many open markets. [*Desk thumping*] Not even once as many open markets.

Sen. Mohammed: Frequent flyers!

Sen. M. Shabazz: I do not know if it is true, but some of them now have their frequent flyer status. [*Desk thumping*]

So Mr. Vice-President, they say one thing and they do another thing. They condemned some things just as they condemned the Industrial Court and yet they come back and find solace in the same Industrial Court. That is how they go: one thing today and another thing tomorrow. [*Interruption*]

Sen. Mark: Mr. Vice-President, on a point of order, the Senator is misleading the Senate. He said that the Government condemned the Industrial Court. I do not know—[*Interruption*]

Sen. M. Shabazz: Mr. Vice-President, I never said the Government, I said “they”, meaning some of the trade union leaders and trade union people on that side. I really do not want to sit and give way. I do not want to give way again, I said “they”. He is misleading the Senate. I meant and I said it clearly that some of their union people on that side who were so vociferous and strong about the union spoke about judgements and the things that happened during the People's National Movement under the Industrial Court, and I still stand by that. Some of them have even spoken to me personally, but I would not go there.

Sen. John: Mr. Vice-President, on a point of order. The hon. Senator is referring to trade unionists on this side. I am a trade unionist and I am challenging him that at no time did I or the other trade unionists on this side make such a statement. I am asking that he withdraw it.

Sen. M. Shabazz: “Oh gosh, how dem trade union men getting so jittery?”

Mr. Vice-President: The Senator in making his contribution has not, in fact, directed his attack at any one person, but I want to use this opportunity to draw to Sen. Shabazz’s attention that I have allowed some latitude to deal with issues that are not directly connected with the Minimum Wages (Amdt.) Bill before us. I will like you to start focussing on the Bill itself and spend less time on conditions at the Industrial Court and general discussion on the Bill itself. Come back to the Bill before us.

Sen. M. Shabazz: Mr. Vice-President, one of the main things about this Bill, with all due respect to you, is that it seeks to move from the Chairman of the Essential Services Division to the Industrial Court; it seeks to move from the Magistrates' Court to the Industrial Court, Sir, matters affecting workers and minimum wages in this country. The Minister alluded to that. That is what he is seeking to do, to move to the Industrial Court. So the Industrial Court, with all due respect to you, Sir, if even you can rule, is an integral and significant part of what this Bill intends to do. It intends to take matters to the Industrial Court.

We must look at the Industrial Court and we must work out how will these workers get proper redress. If I am going to say, “Okay, yes, take it to the Industrial Court and let the domestic workers go to the Industrial Court,” I must feel certain that it is the place to which they must go. Taking your ruling, Sir, I

will stay off the Industrial Court a bit, but I speak of the Industrial Court mainly in that light.

So, as we say, it would be difficult. We understand what happened with the workers. We understand clearly the problems that the workers have in this country, because we have done so many things from 1956 to this day to ensure that workers get themselves in far better positions in this country. As a matter of fact, one of the stabling factors in this society is as a result of how workers and people have been treated. We moved workers from 10 per cent to over 100 per cent. Do you remember when workers used to get 400 per cent salary increases in this country Senator? Four hundred per cent and 200 per cent happened under the People's National Movement administration. [*Desk thumping*] Now when workers ask for 10 per cent, they would promise them that they would get it and they would only get 2 per cent and sometimes 1½ per cent; minimum increases.

When we look at the high fine for employers, again, it is a measure to be used in this Bill to ensure—what the Minister said is, “What I explained just know was the plight of our low-paid workers; they are often denied minimum wages and are forced to suffer in silence.” The Minister recognizes that.

“High price for employers,” when we look at that we see in the Bill that it is the Government's intent to ensure that employers are fined more than they are now:

“(2) An employer who contravenes...subsection (1) is liable on determination by the Industrial Court to a fine of thirty thousand dollars...”

2.00 p.m.

We on this side feel that if you have to fine the employers more, that is understandable. The reason we ask that your system work quickly, effectively and properly is so that the workers also will be compensated and compensated properly when they are taken advantage of, discriminated against or when they are done wrong, so that they will get money and be able to move on and start again. Any time a worker has any kind of problem with an employer, it is difficult, regardless of how you look at it, for that worker to continue to work with the employer.

We see here, too, that besides the \$500.00 and \$10,000.00 fines they are offering imprisonment in some cases. Maybe the day that an employer goes to prison it may make a difference in the situation. The employer who does not pay proper wages, who pays a domestic worker \$600.00 and forces her to work hard

Minimum Wages (Amdt.) Bill
[SEN. SHABAZZ]

Tuesday, December 14, 1999

and do other things, who is not willing to pay proper wages, who takes the opportunity not to pay and to make the employee sign one book and another in order that he will get off, who does not pay national insurance and all these other things, in a way should really be treated tough and hard because, to us on this side, somehow he is really robbing the poor. The worst thing to do is to rob the poor. [*Desk thumping*] When you rob the poor the price must be higher and it must be harder. This is why governments must ensure that the poor get better benefits time and time and time again.

To date, in this country, there is only one place, Mr. Vice-President, with your permission, in this last four years of this administration where they are giving money continually and promising that they would not lose any money and they would not close them down. You and I know where that is. No other operation in Trinidad and Tobago has that guarantee as Caroni (1975) Limited has, Sir. They are assured of above minimum wage and guaranteed, regardless of what happens to their money, that they will continue to get more. Other workers must be given the same benefit and the same privileges in Trinidad and Tobago.

We are asking for the same guarantees for domestic and all other workers regardless of however annoyed they on that side may get, based on what we may say. Mr. Vice-President, I really do not want to annoy them. I am talking to improve the situation, but even if I annoy them and they use their favourite term that “I am a non-achiever”, that we do nothing when we talk against them, that is their business. Let them continue to do that. Let them treat me the way they treat the media, Sir. Let them treat me the way they treat all other people such as the calypsonians and the Senators here who go against them and say things against them. I have no objection to that, Sir.

Look at the Inspectorate, Sir. What has happened? We have seen Bills passed here. On the question of the whole court system in Trinidad and Tobago, they passed the Family Court Bill and even with this Bill there has been no infrastructure put in place over the last four years to make sure that it happens. We have just seen the same situation with a Bill passed here, the Motor Vehicles Ordinance, no infrastructure in place to ensure that these things happen, and it is the same thing that is going to happen with this Bill. I feel sad to tell the hon. Minister of Labour and Co-operatives that.

All the things that they are talking about—to ensure and to try their best to make sure that workers do not suffer in silence; to make sure that through the Industrial Court they get better conditions for workers—are not going to happen

because the infrastructure to ensure that those things happen will not be put in place. As a matter of fact they cannot put it in place in the next nine months. [*Desk thumping*] We would like to take the opportunity to give workers their due. We would like to commend them for bringing the Bill to the Senate and ensuring that it is passed, but we would like to take the opportunity to seriously tell workers that we are working now to ensure that, after having seen the mistakes they made and continue to make, we do not make those same mistakes too.

Mr. Vice-President, what are their economic policies? One of the things I must touch on is, they talk about minimum wages for everybody. They talk about minimum wages for the poor and dispossessed. This is why at times we say that they are on public relations and that they are on a policy only to move themselves forward. [*Desk thumping*] Do you know why we say that too? As we are on minimum wages, let us deal with it again. Personally, I am thankful for the salary I get in the Senate, Sir, but as a Senator that is a minimum wage, you know. These people on this side, and I include all of them now—and they could object—just as this Minimum Wage Bill has been brought to this Senate and has to be passed with a simple majority, the Minimum Wage Bill for Senators recommended by the Salaries Review Commission needs a simple majority to be passed. [*Desk thumping*] Why are they not telling us that they have come to a unanimous decision to pass this Bill for all workers of the Trinidad and Tobago? It is because it is not politically correct.

It is politically correct for the Government to ask for a unanimous decision to pass a Bill to pay their members, to pay us and to pay the judges, the same judges it is asking to administer for the workers. The Government is making so many people disgruntled throughout our society by paying them a minimum wage and not listening to what the Salaries Review Commission says that it has to be a shame that this Bill—although we recommend it and understand that it is a good move—is another part of the Government’s public relations gimmick. [*Desk thumping*] It is. It wants to be able to go on the platform, as their members have been doing, and say, “Vote for us because we gave you minimum wage. Vote for us because we have hanged ten people”.

When one looks at what has been happening—workers in this country, such as the army, claim that they are getting a minimum wage. They are still owed money and the Government is not looking to pay them the increments they are owed. The same army that is being sent out on the streets to work with the police, to arrest people, to do things, is getting a minimum wage. So we say, yes, deal with

Minimum Wages (Amdt.) Bill
[SEN. SHABAZZ]

Tuesday, December 14, 1999

minimum wages for the lowest and the dispossessed but deal with the minimum wage for the judges who have to administer it.

We say again and clearly, delink it from us, the politicians, and pay the judges, the teachers and the public servants who have to get money under the Salaries Review Commission. Forget about us. If you are not going to delink it, be brave and strong enough. Just as you have been brave and strong enough to come with this Minimum Wages Bill for the domestic workers and for everybody, be brave and strong enough, show guts, show some kind of fortitude and come again with your same simple majority to pass the next Bill so that Senators and Members of Parliament would not get minimum wages. [*Desk thumping*]

Mr. Vice-President, having said all that, I say again, it is commendable for the Government to bring the Bill. We want to see better conditions for domestic workers. We want to see better conditions for workers. We want to see the employers, not only treating workers less harshly but understanding that, from their flow of money, they must reach out and help their workers because workers are an integral part of what happens regarding the development of Trinidad. We want to compliment the people who have been fighting—the domestic workers and all other people who have been fighting to ensure that this Bill moves through.

We ask this Government, please, to ensure that this is not just a public relations gimmick that the Government is on, but it is really willing to pay people and get better conditions for people. We ask them to do it with a heart that will ensure that the country—and in order for the Government to do that it must set up the infrastructure to ensure that this Bill is properly and effectively administered. Thank you very much, Mr. Vice-President. [*Desk thumping*]

Sen. Selwyn John: [*Desk thumping*] Mr. Vice-President, I rise to support the amendment to the Minimum Wages Act, 1999. In doing so let me begin by supporting some of the contentions mentioned by Sen. Diana Mahabir-Waytt. One of them has been the whole manner in which the appointment of judges to the court has been and was being done and the very competence of people, who are in a very sensitive area, in dealing with matters of trade disputes, break down of negotiations for wages and matters like that. Maybe I would come back a bit later to the question of the gender issue that was raised by Sen. Mahabir-Wyatt.

It would appear to us on this side, the trade union side—let me try to distinguish—that there has been a lack of interest from female attorneys in applying for positions at the Industrial Court. This is more so because of the treatment handed down to a certain judge who felt that, being appointed in the court and having to deal with the issues, she should be free and fair in judgement. It happened that this particular judge—she is a late judge now—sat on a matter in which the state was a party to the dispute and that judge ruled against the state and had difficulty from that time on. When her contract term ended, it was not renewed and, I may say, my union, the labour movement, expressed dissatisfaction about the whole issue. Again, the very tenure, it is something that the Government has assured the labour movement they are looking at, the terms and conditions of the appointment of judges in the Industrial Court.

Recently I was involved in a dispute where the judgement was handed down against my union and we felt, well, the judge's position was such that his term was coming to an end and he had to be careful because the state was the other party. However, it does need some review. The authorities, the powers that be, need to streamline the appointment of judges because short-term or three-year contracts do not allow one the comfort of looking at issues in a balanced way. It is not that I am accusing any of them of being prejudiced or biased against any party, particularly the trade union movement.

I cannot support Sen. Shabazz when he says that trade union leaders criticize judgements of the court. This is their best judgement. Having looked at the evidence, this is what they come up with. We may not be happy and we may not be satisfied. What I am against, anyhow, is when certain administrations use the opportunity of palming off their supporters in places like the Industrial Court. It was not only in WASA and BWIA where the boys got jobs.

I know and I have experienced, Mr. Vice-President, meeting with an administration, some employers in the public sector, at a certain town hall where the mayor came in and ordered the CPO, the union and everybody out of the town hall because he does not like unions. However, a short while after that, the very mayor was appointed a judge in the Industrial Court. The very mayor who does not like unions became a judge in the Industrial Court. How could he be fair to unions being a judge in the Industrial Court? However, this is what we have to deal with.

When I hear people like Sen. Shabazz make statements in the Senate, like those he made a while ago, and the party and the administration that he belonged to appointed as a judge in the Industrial Court a treasurer who was a former

Minimum Wages (Amdt.) Bill
[SEN. JOHN]

Tuesday, December 14, 1999

mayor, and that mayor put the CPO and the trade union out of the town hall because he does not like unions, we must comment and talk about it. I am not saying that the fella—I never appeared before him. Since he was appointed I refused to appear before him in the Industrial Court on any matter involving my union. It is not that he—[*Interruption*]

Mr. Vice-President: Senator, I would prefer if you stay away from personalizing your discussions on the Industrial Court.

Sen. S. John: Thank you, Mr. Vice-President, I would. Then it would not be fair to us to just hear people criticize and make comments about trade unionists expressing views.

2.15 p.m.

Speaking on the matter before us, Mr. Vice-President, there are two issues that have come out of these amendments with which we are dealing; two important issues.

Firstly, the question of the jurisdiction of the court to deal with erring employers who have breached the terms of the Minimum Wages Act and de-linking it as a criminal offence to one that would be referred to the Industrial Court more as a trade dispute.

Secondly, the question of equity in dealing with parties that are breaching the law. As a trade unionist, if it is felt that by penalizing an employer who has breached the law by sending him to prison, may not be the best purpose of enforcing the law, then one has also to look at the very law that provides for decertification of a trade union and for jail terms for its leaders where they, too, have breached the terms and conditions of the labour laws of this country.

However, it is my view that changing the jurisdiction from the Magistrates' Courts to the Industrial Court is a good move. The effect would not be less in its application, because from our experience, there are employers who have continuously been abusing their positions and ignoring the law; even ignoring the judgement of the Industrial Court and unions have taken some of these very employers to the very Industrial Court for offences under the Industrial Relations Act, and we have witnessed the court ordering penalties, in one case, of a fine of \$20,000 for an offence under the Industrial Relations Act. The employer paid it. I say it may be one of the ways to get implementation of certain actions where there is failure to have them done in the Industrial Court.

The experience in the Magistrates' Courts was not a pleasant one, because of the frustration of getting the matter heard. It took years and, many a time, by the time the matter was heard, the parties to the issue that gave rise to the dispute were not present or available, and those matters were usually dismissed.

One would feel—and I go on record as complimenting the work of the Industrial Court within recent times. I expressed surprise when I heard that there were issues that were outstanding for 30 years. I am not aware that the court has any matters there for any length of time. Within the last few years, that has been considerably reduced and I know from my experience that I do not have any matter that could be more than a year outstanding in the Industrial Court.

I cannot doubt if Sen. Shabazz says he has matters for four years. I cannot doubt it. I am not aware of it. But, I know in the case of my trade union we are on record as having the most matters reaching the court and I cannot say right now whether there is any matter more than a year old pending before the Industrial Court.

When this Bill to establish the Minimum Wages Order came here, Mr. Vice-President, you know the difficulty we had. The Independent Senators got involved in trying to have this thing regularized to a point where they were saying that the employers did not mind paying the minimum wages set, they had difficulty with the other conditions. We agreed and supported them and we went accordingly.

But, what has happened since then is that most, if not all the employers, that are not unionized, have used the Minimum Wages Order as the criterion for setting wages schedules for their employees, to the extent that a number of matters that have reached the court, have been matters in which the employers reduced the pay of their employees because they claimed that the Minimum Wages Order was law; they had to abide by it, so they could not pay higher than it said. There were a number of such cases.

Let me compliment the trade union movement for stepping in and assisting workers who were not unionized in settling these matters. There are many of them—my union may have over 200 cases—in which we got involved and sent to the Industrial Court for adjudication, cases in which employers took advantage of employees. I agree with Sen. Shabazz here, that the interpretation of the law has become so varied that employers were paying people minimum wages of \$7.00 an hour saying that they worked them two hours a day; employers reduced the wages of workers they had employed to bring them down to \$7.00 an hour because they said it was against the law; the Government had fixed that and they could not pay

Minimum Wages (Amdt.) Bill
[SEN. JOHN]

Tuesday, December 14, 1999

them more. There are a number of matters, some of which have already been settled and some are still pending, of abuse of the terms and conditions of the Minimum Wages Act.

I say, too, that the question of policing this, cannot be left merely with the Inspectorate and the Minister of Labour and Co-operatives. Of course, the Minister is here and we want to suggest to him that the number of inspectors must be increased. That division of the Ministry of Labour and Co-operatives must have more manpower. But, the trade union movement, the non-governmental organizations and all the bodies that claim they have the interest of women workers, or poor workers, at heart, must get involved in having investigations made where they are aware that there are breaches of the law and bring them to the attention of the Ministry of Labour and Co-operatives or to somebody who could pursue them on behalf of these workers.

The Minister mentioned that part of the exercise would involve at least monthly meetings in various areas, where workers could be present; or they would be available so workers could present their complaints of breaches, advantage or matters in which workers have been affected by employers not observing the terms and conditions of the Act. We support that. We feel that is a move in the right direction. We feel also that we, in the trade union movement, would do investigations and require the Ministry to have some of these officers present when things are being done so that they have first-hand knowledge of the complaints being made.

The question of the labour force, as is known, is so diversified now that many women are involved in the fast food business. That is where some of the biggest complaints come from. Those workers are required to work all kinds of hours and, invariably, if somebody did not turn up on a shift, workers have to continue from their shift into another shift and, in most cases, female workers are involved. Nobody could force them to join trade unions but let me say that with the passing of the Act, trade unions have benefited and there are many workers now who have shown the interest, gone to trade unions and organized themselves, but quite a lot of them remain unorganized.

Let me also support the Minister in his statement of the work being done by the National Union of Domestic Employees. I want to join him in paying tribute to Miss Clotil Walcott, the President of that union. Let me say that I cannot claim to be the one who got her involved in the trade union movement, but she began by being a most active Shop Steward at one of the branches of my union that gave her the opportunity to attend courses, training and whatnot.

The very National Union of Domestic Employees came about with the help and assistance of the late James Lynch, a former General Secretary of my own union, who organized the union and the workers and, today, if there is a union that could speak for and represent the majority of women workers, I think the NUDE deserves that title.

It is working with many difficulties in that the type of workers they organize are not in factories or concentrated in one area. They are scattered and it takes a lot of energy and work for them to keep in contact with these workers, particularly where disputes come up about dismissals and breaches of orders and so forth. But, we want to say that the whole country must and should support any movement like that, that gives the opportunity of some defence, or some opportunity of representation for workers who are at that low rung of the labour ladder. I think credit must be given for the perseverance, patience and hard work that has been put in by Miss Clotil Walcott and the executive members of that particular union.

There is one other issue that I think we ought to mention to the Minister, which is that we must and should get the Minimum Wages Board to review, as an urgent matter, the minimum wage of \$7.00 an hour. A sum of \$7.00 an hour means about \$56 a day and while one may feel that is a big sum, it is minuscule when one has to consider the unwed mother with two or three children who has to depend on that type of remuneration to survive. One would feel that the call by the National Union of Government and Federated Workers Trade Union for a review of the minimum standard is more so, to bring in line, or to keep adjusting with the rise in the cost of living that we presently have. A sum of \$56 a day does not really represent an adequate figure for any worker in this country, much less a mother who has two or three children to take care of and that is her sole means of income.

2.30 p.m.

I also say that the whole question of the Industrial Relations Act—more so, its interpretation as to which of the working people are workers within the meaning of the Act, and which of those workers have the opportunity of having a trade union or they, themselves, reporting a dispute to the Industrial Court—must be a matter of priority. As a matter of fact, the trade union movement has looked at the Act and has also made representation that the very trade union needs now the assistance to minimize or to get together in the form of mergers and amalgamation to reduce the number of small bodies that are not able, or do not have or cannot muster the resources to do good and meaningful representation of workers.

Minimum Wages (Amdt.) Bill
[SEN. JOHN]

Tuesday, December 14, 1999

The same way businesses and employers have the opportunity to merge or to amalgamate their business, it is felt that the trade unions should have the very opportunity—even though it is in law, it is very difficult for unions to merge. More so, the provisions of the IRA make it more difficult if a union has any worker in an essential industry and they would like to merge with other workers in an essential industry. We have raised this. The Minister is looking at it, and one would feel that there is need for larger and stronger bodies that could afford or have the resources to afford the facilities and the inputs to offer to workers better representations.

The state of the unions in the country reflects that the membership of trade unions is reducing. It is not just Trinidad alone. It is worldwide. What is being done throughout the world is that the unions are getting together and are able to pool their resources and to offer better representation to the workers.

In this country, unions have hardly been able to get beyond the bread and butter issues that they have to deal with. Possibly, my union may be the exception. We got involved in the construction of homes and houses; we have done our part in creating employment opportunities; we have formed companies, and all these things are what the trade union needs to be doing. We hope the Minister would pay some attention to the representations that are being made to have the law amended to allow it.

Let me end by complimenting the Minister for bringing this legislation. I hope that we do not have the difficulty we have experienced with the passing of the Minimum Wages Act and the reaction of the businesses and employers, even though they assured the Members of Parliament that they had little or no problem with the minimum standard that was set, and that they objected to other things.

This Bill ought to provide for an extension to what could be done for workers other than what we had contemplated before and, more so for the domestic workers who, under law, are not regarded as workers for the sake of representation by trade unions, or they, themselves, pursuing trade disputes that could affect them.

Thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Agnes Williams: Mr. Vice-President, this is a historic day for me, because I remember, Sir, when I was on the Minimum Wages Board we had the task of trying to arrive at a national minimum wage. There were many issues that we saw needed to be addressed besides just fixing a national minimum wage.

Promises were made by the Minister of Labour and Co-operatives that he would get our Government to look at finding a way of moving labour matters from the Magistrates' Court to the Industrial Court. Today, I feel pleased, Sir, to see that something has been done in that direction.

We all know that in the Magistrates' Courts there are so many matters like narcotics, firearms, affiliation cases, maintenance cases, petty civil matters, juvenile matters and summary offences, to name a few—I am not a lawyer—but all these cases clog up the system and, in that system, of course, labour-related matters are given low priority. So, moving labour matters from the Magistrates' Courts to the Industrial Court could only be a step in the right direction. [*Desk thumping*]

Sometimes we cannot always give the entire pie all at once, but as the Good Book says, “step by step, line by line, precept upon precept, we will get there”, and today, I am pleased to say that our Government has made another step in trying to alleviate the hardships suffered by the underprivileged and addressing the social needs of our country by doing this.

Mr. Vice-President, I have heard other Members wonder about how many labour inspectors there are to see about labour matters. Let me just say that, “Hope deferred maketh the heart sick, but when the desire cometh, it is a tree of life”. [*Desk thumping*]

Sen. Daly: Last Supper!

Sen. A. Williams: It is best to give a man hope than to leave him with nothing at all. Today, though we have insufficient labour inspectors to cover the entire country, that is a good reason also to allow the workers access to the Industrial Court to initiate their own cases. That is a good reason. [*Desk thumping*]

Sen. Gangar: Very good.

Sen. A. Williams: Mr. Vice-President, our Government has the foresight. Somebody said that “a promise is a comfort for a fool”, but I must admit that I have seen so many efforts to make good certain promises. We always have poor people with us. The poor are always with us, as the Good Book says, and when one promises to help and makes efforts to help, one is winning people's hearts by doing those things. That is a strategy we must all learn to adopt.

People argue that under the Industrial Relations Act, as is true, domestic workers have not been recognized as workers. But, Mr. Vice-President, when this minimum wages order was passed and we raised the minimum wage to \$7 per

Minimum Wages (Amdt.) Bill
[SEN. WILLIAMS]

Tuesday, December 14, 1999

hour—which works out to about \$1,213 per month—there were many domestic workers and other people who were getting about \$400 per month, and that was some sort of increase, though small. At least they could have done something better than their former situation. So, now that we have increased their wages, the next step is to give them avenues to get justice.

I must say that I agree with this section where we have changed the penalty from imprisonment to a fine. If one imprisons my employer, how does one want me to get work? How can I get redress? When he is in jail, who will run the business for him? How would he generate more income to even pay me what he owes me, pay me more and pay the other workers? By imprisoning the employer, we are not doing anybody any good. Not the employer, not the employee, or other people who are seeking employment. I think it was a very good move to remove the jail sentence and increase the dollars! Let it hit him where it hurts; in his pocket! Let him pay more money!

There are some women like Miss Clothil Walcott, Miss Hazel Brown and our own Sen. Diana Mahabir-Wyatt who have been complimented before for fighting for domestic workers and ordinary workers. [*Desk thumping*] I do admire these women for their struggle to help people who have been less fortunate, and I want to really put my foot in and be a part of this struggle for women, because we all come from—I come from the grassroots and I know hard living. I know how to abound and abase, and we as a Government must continue to have a heart to help people at all levels.

Today, Mr. Vice-President, I see no problem. I must compliment the Minister of Labour and Co-operatives and his staff for working with post haste to bring these amendments here today; to transfer the jurisdiction of labour matters from the Magistrate's Court to the Industrial Court; for broadening the avenues so that the workers can take their own cases to the Industrial Court; and for removing jail terms and introducing heavier financial fines for employers who breach the provisions of the Act.

Even the very section, Sir, where this amendment stipulates the time factor on page 4 at clause 22B(2) as 14 days for a worker making a complaint is given, that is another step in the right direction instead of just leaving it open-ended where one will take as long as possible to settle the matters.

I do not know why people would criticize these amendments. It is the normal way to go. It is the only way to go, and I know by the next time my Minister of

Labour and Co-operatives comes back here with another amendment, it may be to do something to the Industrial Relations Act so that there will be some redress for domestic workers to be considered in some way as workers, in that term; but all cannot be done one day, Mr. Vice-President. So, with those few words, I congratulate the Government and the Minister of Labour and Co-operatives and his staff for this step, and I know that workers out there will be pleased. The next step may be to raise the minimum wage.

Thank you, Mr. Vice-President. [*Desk thumping*]

2.45 p.m.

Sen. Martin Daly: Mr. Vice-President, having regard to the stimulating events which I anticipate in the Parliament later this evening, such as the passage of the Environmental Management Bill almost by acclamation as a result of our attempts to get the Government and Opposition together, the high drama of the consummation of the Tourism Bill in committee—I really do not want to keep us away from those forthcoming events, so I would be more than usually brief. I am really looking forward to the main event. What we have been doing so far today are supporting bouts. I use the word “bout” advisedly, having regard to some of the arm twisting that we have seen taking place during the course of the day. It certainly is a wonderful day for Sen. Agnes Williams to remind us what an asset she is to the Government. [*Desk thumping*] We say no more about that until we resume committee.

The only reason I decided against my initial inclination—this is a good Bill and it is worthy of our support. Clearly it is putting breach of minimum wage provisions within the right jurisdiction. We do have a technical problem with clause 22(b)(3) which, again, we have been discussing quietly on a—well, I like to say in this Chamber—tri-partisan basis. I am not satisfied with the provisions of clause 22(b)(3) at the moment. I believe what we are concerned about has already been brought to the attention of the Minister’s advisors. I really would like this section to make it clearer that the intention is when a minimum wage matter is reported to the Minister, he will treat it as an unresolved dispute and then first apply the conciliatory procedures and then report the matter to the court under clause 59(2). I think that needs to be made clearer. I do not quite understand at the moment—as it has been brought to my attention—what it means subject to the provisions of the Industrial Relations Act or send the matter directly to the court. That point has been raised by Members on all sides.

Minimum Wages (Amdt.) Bill
[SEN. DALY]

Tuesday, December 14, 1999

I believe, recently, we did apply the disputes procedure, Part V of the Act, *mutatis mutandis* in some other legislation. We will have to deal with that in committee. Since it has come up in the context of enlarging the jurisdiction of the Industrial Court, I too must add my two cents to the question of security of tenure of judges of the Industrial Court, particularly, as we are now enlarging their jurisdiction.

A colleague quite close to me rather put his hand in the lion's mouth when he spoke about certain appointments in the Industrial Court. I have expressed myself rather strongly about that when we debated other things to do with the Industrial Relations Act. Of course the problem is—which is why I want to comment on it, Mr. Vice-President—that all the governments we have had, have treated with appointments to the Industrial Court in a somewhat cavalier fashion on occasion. We get into these silly arguments where one side is trying to say that the other side did something which the other side did already. I deliberately put it in those Alice in Wonderland terms. The same khaki pants! All the governments we have had tried to use appointments to the Industrial Court as a form of patronage. Generally, it has not been too bad or too severe. There have been traces of it. There have been one or two notable occasions when it was quite blatant, but I do not want to embarrass anybody.

What is far, far worse is the fact that when judges in the Industrial Court are appointed for fixed terms, whether it is three or five years, a dreadful practice has developed—we have had it from all governments—where as it gets closer to the time of expiry of their contracts, nobody says anything. Their contracts then expire and we have the difficulties that they cannot complete matters that they are doing. They then get two or three months extensions to complete outstanding work. Then in most cases, they finally get another contract. That is a practice that must stop.

No one is suggesting that if the Cabinet—because that, at the moment is the appointing authority. I will have a lot to say about that when we come to deal with the Environmental Commission. If, in our wisdom, in the labour law legislation we have made Cabinet the appointing authority and when someone's contract is due to expire, the Cabinet would like to replace that person "A" with person "B", provided they are suitable, there is nothing wrong with that. What I object to is the discourtesy of just letting the time run out, tell the person nothing and keep them dangling. It is not only a discourtesy; it is bound to affect the morale of the members of the court.

Ironically—I said to the Minister that I would not raise it but others have, so I cannot leave it—we have just such a situation: where the contracts of two female members of the court expired on November 30, 1999 and they have not been told anything. I am not pitching here to try to get anybody’s contract renewed. I am concerned only with the procedural impropriety of this practice, of allowing contracts to run out and not saying to the office holders whether they are going to be re-appointed or not. That is what I am concerned about today: the procedural impropriety of that practice, which has prevailed under every government and has happened in the case of two judges whose contracts expired on November 30, 1999. Another judge whose contract expired earlier in the year, I believe, eventually by this tortuous process, obtained another contract. That is extremely discourteous, demeaning and it is certainly intimidating.

I would expect the Government to understand that if it is serious that the Industrial Court is the proper place to put the administration of its minimum wage legislation, about which it is so proud, it would start to treat members of the Industrial Court better than their predecessors otherwise, I am afraid, they are “mamaguying” us yet again. The Government said that this legislation is so important, but it wants to put it into a court that is treated with discourtesy and intimidating behaviour. I know the Government is going to rectify it. I am trying, Mr. Vice-President, to speak about it in the mildest possible terms. One cannot treat people with that kind of discourtesy and intimidation. I hope that this matter of the judges whose terms have expired will be dealt with one way or the other as soon as possible.

I wish to say for the public record, the Government will have the difficulty, that they know perfectly well, that the then President of the Industrial Court, shortly before his unfortunate demise, recently recommended both these women—on this occasion may I be forgiven for the gender specific reference—as suitable persons for another contract. The Government would have to contend with that. That is why I know it is an oversight. Therefore, I am appealing to them to put an end to the procedural impropriety of all their predecessors in dealing with this matter.

That aside, Mr. Vice-President, and subject to our being able to tidy up this reference to the trade disputes procedure, this is a thoroughly good Bill.

2.55 p.m.

Sen. Dr. Eric St. Cyr: Mr. Vice-President, I too support this Bill. I think it will improve the efficiency with which we back up the Minimum Wages Order that is in place. I would, however, like to make two or three comments.

Minimum Wages (Amdt.) Bill
[SEN. DR. ST. CYR]

Tuesday, December 14, 1999

I do not think that there is anyone who would not be fully supportive of the proposal to treat domestic workers as workers. I, however, wonder what is likely to be the short-term consequences, since casual empiricism suggests to me that many employers—not all—could be hard pressed to pay the appropriate wage out of their current incomes. To the extent that this could cause some difficulties, we should probably be careful how we press that matter.

I would want to say, generally, on the business of legislating minimum wages that fundamentally, the minimum wage in any society is determined by the level of its labour productivity in the agricultural sector; that is where the base is set for all minimum levels of incomes in the society. I have spoken on this several times before and we could try many things, but ultimately, that is where the base lies.

My final comment Sir, is on the necessity in the Bill, clause 3, to define what we mean by “judge”. I gather from this definition that not all members of the Industrial Court would qualify as judges in this case and we will be facing this issue in a more general way later on. Because, for a court to be fully effective, it must be independent, which means that properly, the appointing authority should not be the Executive, since in many cases or in some cases, the exercise of judicial authority may run counter to the desires or wishes of the Executive. If, however, we make the Judicial and Legal Service Commission the appointing authority, they are constrained by criteria specified for the appointment of judges from their side and where we are setting up these special tribunals, there are persons to be appointed who do not qualify to be appointed by the Judicial and Legal Service Commission. So we do have a difficulty in this matter and we will grapple with it perhaps, more effectively, when we come to deal with the environmental commission. So, we are sounding a note of warning.

It is worthy of note that “judge” means one of three persons here and so, perhaps it might have been more appropriate to say “a member of the Industrial Court who would normally preside over a court session” rather than specify it, “Chairman, Deputy Chairman, or Head of the Central Services Division”.

Mr. Vice-President, with those comments, I am supportive fully of the intent of everything in this Bill. I do, however, think that there could be difficulty and I dare say, with much trepidation, I have dared to voice them seeing that some of these matters which, given a high gender specific reference these days, could cause us to lose objectivity in how we treat with matters, but I have said my mind just the same and I thank you for hearing me. *[Desk thumping]*

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I rise to support this Bill, the Minimum Wages (Amdt.) Bill, 1999 and to say this is a very important piece of legislation in the context of further entrenching and advancing, not only individual labour law in our country, but I dare say, the collective rights that workers enjoy through their trade unions since the 1930s. It is legislation that is also geared towards the promotion of a policy whereby we in the Government are seeking to provide a virtual basic floor of rights for workers in our country.

The Minimum Wages (Amdt.) Bill provides the basic floor of pay and terms and conditions of work for workers who are not organized, who are not in trade unions in Trinidad and Tobago. Of course, the Maternity Protection Act also provides a basic floor to ensure that women receive leave with pay in respect of pregnancy. So, when we examine this piece of legislation, it is really an attempt on the part of the Government to ensure proper and effective enforcement of the minimum wages orders in Trinidad and Tobago.

There are more workers, as I said, un-unionized than unionized in our country. In fact, we have less than 30 per cent of the workers in our country organized into trade unions, so the vast majority of workers are not in trade unions. Therefore, the Government of Trinidad and Tobago has a responsibility and a duty to ensure that the exploitation that is visited on workers who are not unionized is minimized as much as possible. Hence the reason, the importance of this legislation where the Minister of Labour and Co-operatives is seeking to remove the obvious bottlenecks and interruptions and virtual roadblocks that are placed in the path of workers in accessing justice in Trinidad and Tobago.

The Minister of Labour and Co-operatives, through this measure, is seeking to allow workers to go to the Industrial Court as opposed to the Magistrates' Court. I think that is a very important measure, particularly in light of the fact that we have so many hundreds of thousands of workers in our country who are not currently protected in terms of trade union organization.

So, in this context, this is a Bill that is commendable and I support it fully. It is a continuation of the Government's commitment to empower and to protect and advance the interests of the ordinary citizens of our country. We did not only introduce the national minimum wage in Trinidad and Tobago for the first time in the history of this country, but we also placed on the statute books the Maternity Protection Act. [*Desk thumping*]

Minimum Wages (Amdt.) Bill
[HON. W. MARK]

Tuesday, December 14, 1999

Mr. Vice-President, in addition to the Maternity Protection Act, which protects women who were victims of a kind of brutality on the part of certain unscrupulous employers who simply dismissed women workers at will once they became pregnant; it was this Government, the United National Congress and our coalition partners that brought legislation to this Parliament. *[Desk thumping]* So when my dear friend, my good friend, Sen. Muhammad Shabazz, says to this honourable Senate that this Government has done little for workers—

Mr. Vice-President, we could have gone further. We could have had here in this Upper House the Occupational Safety and Health Bill. *[Desk thumping]* We could have had that here. Where for 51 years workers have been labouring under what is called the Factories Ordinance, that was laid down by the colonial masters when they were here, before they left in '62. We wanted to bring our legislation up to modern standards because we have a modern industrial sector in Trinidad and Tobago. We wanted our legislation to be consistent with the strides that we have made. Unfortunately, we did not get the support of the Opposition in the other place.

It is now history that the PNM told the entire country that, had the Government brought the Dangerous Dogs Bill in its original form, seeking to have a total ban on pit bulls, they would have guaranteed the passage of that Bill in the other place. We brought a Bill to deal with the safety, health and welfare of workers, of ordinary people, of the citizens of this country, and employers included, and the Opposition PNM voted against that Bill by abstaining. As far as the PNM is concerned, dog better than man! *[Desk thumping]* *[Laughter]* Man gone to dogs under the PNM! Could you imagine, such an important piece of legislation? Where is your conscience, Sen. Muhammad Shabazz? Where is your conscience? When workers of this country, who are dying yearly because of accidents at Point Lisas due to unsafe practices, this Government sought to bring legislation to deal with those issues; the Opposition, in its normal savage, cruel and brutal style voted against the measure. *[Desk thumping]*

Sen. Shabazz: Mr. Vice-President, the hon. Senator is asking me “where is my conscience in voting against the Bill?” I would just like to draw your attention to that, Sir. *[Laughter]*

Sen. The Hon. W. Mark: When I say, “where is your conscience”, I was talking about your party’s conscience, the collective conscience.

Mr. Vice-President, it is not surprising, it is a consistent policy and practice. This is why in 1995, a malignant cancer called the PNM was surgically removed,

never to enter the body politic of our country for a very long time to come. *[Laughter]* So, when we bring legislation here like this one to protect and advance the rights of ordinary people, we expect nothing more than what we have gotten from the Opposition this afternoon.

Mr. Vice-President, they are anti-human rights, this Opposition PNM. The human rights reports of our country that were supposed to be submitted 10 years ago, since 1993, both the covenants on civil and political rights; the PNM was in office in 1993 and they were supposed to submit those report.

3.10 p.m.

They were supposed to submit another report in 1999. They left office in 1995 and it is the UNC and its Attorney General who have submitted those reports to the United Nations. So when they say that, for instance, this Government is on “gallery”, public relations, as the case may be, where is your conscience, your actual record?

We have brought down unemployment from 20 per cent, when we came here in November 1995, to 11.7 per cent by June of this year. That is a performance that is helping ordinary people in our country. *[Interruption]* When we are talking about the minimum wages, I want to tell this Parliament, Mr. Vice-President, I was in Opposition in 1995, could you imagine the Minimum Wages Order for private security guards was tabled in this Parliament in January 1995? We are talking about 40,000 private security guards. For the first time the People's National Movement—I must compliment them for that—under pressure brought this order where they organized overtime and maternity leave for workers. They also provided, for instance, a basic floor in terms of hourly rates for different categories of workers. They brought the Bill to a level that was acceptable, at the time.

You know, Mr. Vice-President, they tabled the order the first week in January and the next week they withdrew the order? They told the whole country it was an error and when they brought back the new Minimum Wages Order for private security guards, it was minus maternity leave; minus sick leave; minus overtime. They reduced all the rates that they had provided to the workers of this country. Do you know why? A cartel was in charge of the PNM. *[Laughter]* I did not say a drug cartel, I said a cartel was in charge.

Sen. Mohammed: Mr. Vice-President, I rise on a point of order. The hon. Senator is using language that is very offensive to some persons who are, today, Members of Parliament sitting in Parliament. I refer to Standing Order 35(4).

Mr. Vice-President: What was the offensive language?

Sen. Mohammed: When he made reference to a cartel of previous members of the former PNM government. He said PNM government, and some members from that previous government are, in fact, today, sitting Members of Parliament.

Mr. Vice-President: What actually is the offensive part of the statement.

Sen. Mohammed: Mr. Vice-President, the word “cartel” in the context in which the hon. Senator said it, did have innuendoes, lies and half-truths in it.

Mr. Vice-President: You may proceed.

Sen. The Hon. W. Mark: Thank you, Mr. Vice-President. I am simply indicating to this honourable Senate that this particular measure is very progressive in the context of advancing workers’ rights and interests in this country. [*Desk thumping*] I disagree with my good friend, Sen. Shabazz, when he talked about the Industrial Court in a kind of negative way and sought to attribute that to Senators on this side who are trade unionists.

I would like to say that the late President of the Industrial Court, Mr. Leo Ramchand, left a rich legacy in terms of efficiency and the level and standard to which he was able to bring the Industrial Court when he passed away a couple months ago, from 1989 when he took over. Today, the average time for a judgement in that court is between one week and 36 weeks. The majority of cases in the Industrial Court are completed in less than two years. I think what Sen. Shabazz referred to was a very long and outstanding matter back in the 1960s involving the Transport and Industrial Workers’ Union.

Since the late Leo Ramchand came in 1989 I would say that, for instance, cases which go beyond two years amount to less than 5 per cent at the level of the Industrial Court. I think that we must give credit where it is due in the context of the work that the Industrial Court has been performing over the last few years. [*Desk thumping*]

I could understand why Sen. Shabazz has a problem with the Industrial Court, to some extent, because it was in this very Parliament in another place, back in 1978, that the private records of pilots were laid in this Parliament by the then PNM government. Do you know that, Mr. Vice-President, when the matter of the British West Indian Airways pilots was taken to the Industrial Court in 1978 and they won their case, the court got less funds and became under-resourced, all of a sudden, as a result of that judgement that went against the PNM at that time. So I could understand why Sen. Shabazz has his reservations about the Industrial Court.

So when we look at this Bill carefully, I want to say to this honourable Senate, I am happy to know that domestic workers, as an example, who have been denied the right of being workers under the Industrial Relations Act, I am happy that the Minister of Labour and Co-operatives has been able to make, at least, a forward advance in allowing these workers to come directly to the Ministry of Labour and Co-operatives, if and when they feel that they are exploited or underpaid by certain unscrupulous employers. So workers can now go directly to the Minister of Labour and Cooperatives who can seek to have the matter resolved at that level, failing which, it can then be transmitted to the Industrial Court for resolution. I think it is a very important advance for workers in our country.

When we talk about minimum wages and we talk about workers, we talk about hundreds of thousands of workers who are unskilled. Thousands of them are unskilled in the country. The Government, led by the hon. Prime Minister, is seeking to put education and training at the forefront of our revolution as we seek to transform Trinidad and Tobago into a quality nation. [*Desk thumping*]

That question of education is so important, because our ticket and the ticket of many unskilled workers today, to liberation, true emancipation and genuine freedom, is education. [*Desk thumping*] That is what this Government is about. We want to upgrade and enhance the skills of our workers. We are going to ensure that those who are now on minimum wages, as a result of the revolution in education, would be able to have their skills upgraded. [*Interruption*]

Sen. Daly: You can send them to Expo.

Sen. The Hon. W. Mark: Well, Expo is another matter. [*Laughter*] We are going into a century, a new period in which, if our country is to continue on its forward march, we must ensure that our workers are properly skilled and equipped. This is what we are about. This is why in March of 2000 we will be experiencing, in this country, the last time that children of this nation have to be subjected to that cruelty called the Common Entrance Exam. It will be abolished after March 2000, and between January of next year to 2001 early 2002, 24 new secondary schools will be built in this country to accommodate our students. No more young children on the blocks liming and languishing. We are moving towards a new era.

Mr. Vice-President, I want to indicate to this honourable Senate that I give full support to the Minister of Labour and Co-operatives on this very important measure and I hope that other Senators would recognize the importance of this measure and give the fullest support.

Thank you.

Sen. Prof. Kenneth Ramchand: Thank you, Mr. Vice-President, it was a pleasure to hear Sen. Mark speaking out on behalf of workers as he used to do when he was not in a position to do anything about it. [*Laughter*]

I do not want to say anything against the present Bill or the provisions that it is intending to make more effective. But I just want to raise two matters; one of which I have raised before and which I hope would be listened to this time. The other I know would not be listened to, but I am still going to say it.

The first is to support something Sen. Dr. St. Cyr said in his contribution, that there is a possibility that the minimum wage provision as applied to domestic workers, may have some effects that are not desirable. By that I mean people who employ domestic workers or handy men in their yards are not firms or companies carrying on a business. They are not able to write off wages paid to these workers as business expenses.

I have raised the question before, that if a private householder is employing a domestic worker or somebody to work in his yard, that person is doing a service in the sense that he is providing employment and he is paying those wages out of a salary on which he has already paid income tax. I do not think it would be unreasonable for the Minister of Finance to make a provision that people who employ domestic workers and pay the minimum wage should be allowed to write off those wages as business expenses. [*Desk thumping*]

I hope, Mr. Vice-President, that Senators would think about this and the Government would consider it, because I know there are people who, obliged to pay the minimum wage would say, "Sorry, I cannot hire anybody." There are jobs that are going to be lost if the Minimum Wages Ordinance is rigidly adhered to and if there are no income tax concessions.

3.25 p.m.

The second point really has to do with equity and trying to create a society where you do not have a continuous spiralling upwards of prices and the cost of living. I believe that some attempt has to be made to stabilize the cost of living as far as possible. From time to time Government says there is a crisis, we have got to stop the spending, we have got to save money and we have got to introduce a wage pause. The wage pause is a gesture towards something that is more radical and drastic and, as I said, which human nature may not permit at this stage in our corruption into capitalism. However, I think that if there is a minimum wage based on the humane assumption that people require a certain minimum amount of money in order to live reasonably satisfactorily, then one can argue that there

ought also to be a maximum wage, a wage which is more than satisfactory, more than enough, that would allow one to make savings, that would allow a certain amount of luxury.

On the other hand, there ought to be a maximum which says, “Listen, if you had 100 you could get everything you want. Why do you want 300?” So I would like to see a maximum wage that is not punitive, that does not tell people they cannot have luxuries, *et cetera*, but a maximum wage that would put some kind of restriction on the mad pursuit of wealth that takes place at certain levels in the society where people have three jobs and their part-time job or their consultancy job earns more than the full living 10-hour-a-day work of an ordinary person. We have heard instances and seen examples in this Parliament of people making money on the side.

So, Mr. Vice-President, I really think that the society, the Government and the legislators ought to try to find a way of working out some kind of system by which there is a cap on wages in the society. The only way in which a minimum wage—*[Interruption]*

Sen. Prof. Spence: Mr. Vice-President, I would just like to ask the hon. Senator whether he would have that and at the same time not have a cap on incomes, profits?

Sen. Prof. K. Ramchand: Well, I am not as versed in these matters as I ought to be but I would think that the notion of the maximum wage would also include a kind of limit to the sort of mark-up and the kinds of profits one can make. Say there is an acceptable profit margin of 25 per cent, I would like to see an accepted limit on profits along with an acceptable maximum wage. Mr. Vice-President, if we do not have that kind of limit at the top, then the minimum wage that we are bringing in for humane reasons will continuously be out of sync with the cost of living. You would have to revise your minimum wage every year if you do not put a cap at the top because we know that prices in the country are usually set in relation to higher wages. So this is just a plea for some kind of consideration to be given to what I think would be an equally humane measure, the introduction of some kind of maximum wage and a cap on profits. That is all I have to say, Mr. Vice-President. I thank you. *[Desk thumping]*

The Minister of Labour and Co-operatives (Hon. Harry Partap): *[Desk thumping]* Mr. Vice-President, I am not going to delay the Senate for very long. I simply want to respond to some of the comments that were made. I thank all those who contributed to this debate. I think it was a healthy debate. I thank you for the good things you said, for the suggestions that were made and I assure you that

Minimum Wages (Amdt.) Bill
[HON. H. PARTAP]

Tuesday, December 14, 1999

some of the suggestions will find their way into the final product a little later on this evening. I wanted to just respond to a few points made and I start with Sen. Shabazz.

Sen. Shabazz questioned, really, whether it made sense to transfer the jurisdiction of matters relating to the minimum wage from the Magistrates' Court to the Industrial Court. We have given this serious consideration and we feel that it is the best move under the circumstances because, flowing from that move, the offences under the Act become industrial relations offences and they will be subject to the trade dispute procedure of Part v of the Industrial Relations Act. So what it means, Mr. Vice-President, is that a breach of the Minimum Wages Order can be deemed a trade dispute, reportable to the Ministry of Labour and Co-operatives by the worker, a recognized majority union or a union of which the worker is a member.

What is happening at the Magistrates' Court is, there is a time limitation of, I think, six months, and sometimes a minimum wage offence is not reported at the times whereby we can access the Magistrates' Court. So if it comes under the Industrial Court it means the Minister can, at his discretion, extend the time for reporting. So in more than one way, Mr. Vice-President, it will assist the people we are targeting. So, Senator, I hope that this will ease your pain and that you will give your support still to the Bill.

Mr. Vice-President, I wanted to comment on Sen. Mahabir-Wyatt's contribution to assure her that when I said the first step, I was really referring to the first step in terms of dealing with the question of domestic workers in the country and not the process. It really bears no reference to the process in dealing with matters affecting domestic workers arising out of the Minimum Wages Act to which this Bill refers. So I assure the hon. Senator that the domestic workers under the provisions of the Bill at clause 22B(2) and (3) will have access up to the Industrial Court. So there is no way we will hold that back. What I had alluded to in terms of the first step was that at some time we will have to deal with the situation of domestic workers. We will have to come to terms with their special problem.

I hope that before my term expires we will find that special way to deal with domestic workers. Mr. Vice-President, it really aches my heart to know that there are workers who are, as I said earlier, suffering in silence and there is hardly anything we can do to help them. This is the first step that we are moving on, Senator, and I assure you that the staff of my Ministry and the Government would be working steadfastly to find an appropriate solution.

I also wanted to make reference to Sen. Shabazz. I just skipped it very quickly, but Senator you made reference to the Industrial Court and it is

unfortunate that you did because I think, and I verily believe, as the Bible says, that the Court is making a great deal of progress and things are moving faster through the Court. I want posthumously to congratulate the late President who has done a tremendous amount of work in getting the Court streamlined and we are working towards that.

I know that Sen. Daly had raised the question of the appointment or renewal of contracts. Sen. Daly, that is outside my jurisdiction but I am going to convey your concerns to the right quarter. Sen. John had made some interesting comments. We are, in fact, revising the Industrial Relations Act through a tripartite committee headed by attorney Oswald Wilson. Matters of that nature in terms of the trade union, the Recognition Board and a few other matters have been addressed and an interim report is expected to be on my desk within the next two weeks I would hope. I will be pressing for it because we want to move ahead with making these changes as they come.

We have a serious problem at the Recognition Board and I am committed to ensure that the matters are resolved because the board was established to provide the protection as well as the mechanism to deal with industrial relations problems in terms of what it was established to do and we must not allow anything to stand in the way of the board performing its function. So, I am eagerly awaiting the report because it is going to address some of those matters.

Sen. Daly also raised the matter in relation to section 22B(3). Sen. Daly, we accept your suggestion. I will make the appropriate recommendation for amendment at the appropriate time. We are also going to do 22A(2) because it did not follow, really. Clause 22B(3) follows 22A(2), so we are going to make the necessary amendment. We are also going to amend section 25 of the Act. I am going to introduce it at the appropriate time and we are going to just lift it from the Order and we are going to bring it in. After section 25(1) we are going to have a section 25(2) which will read as follows:

“The Industrial Court may in addition to arrears of remuneration awarded under section 25(1) award such damages as it thinks fit.”

Then there is a further amendment that we want to do. We want to say that employers must pay compound interest at the instance of the court. The court is going to direct. We will make it a little punitive so that employers will find it difficult to really breach the Minimum Wages Orders. We are going to do this at the appropriate time this evening. Apart from that, I want to just mention about what Sen. Prof. Kenneth Ramchand said—*[Interruption]*

Sen. Dr. St. Cyr: Thank you very much, Mr. Vice-President and thank you, Mr. Minister, for giving way. I just have a question on what you said about compound interest. We want to be careful that we do not enact a retroactive measure. Even though money is not paid, it should probably attract interest, but we want to be careful we do not pass retroactive legislation.

Hon. H. Partap: Yes, Senator. You do not mean a year ago or so, you mean when the order is made?

Sen. Dr. St. Cyr: Yes.

Hon. H. Partap: So if they do not comply with the Order and they are found, well, I use the word guilty, by the Industrial Court then they have to pay the back arrears.

Sen. Dr. St. Cyr: Yes.

Hon. H. Partap: So I do not know if it is that you are referring to. If not, we will smooth it out as we get into committee stage.

Sen. Prof. Ramchand, I really cannot respond to what you said because, as I sit here and you talk about this minimum and maximum wage, I am thinking about a class ceiling. You are trying to establish a class ceiling and I am not sure if I can really respond to that. Perhaps you may be ahead of your time, I am not sure, and perhaps at some later date we can look at that.

However, let me thank all of you for your support. I also want to tell you that the amendments that have been put forward by, in fact, members of my Ministry, Mr. Marcelle and Mr. Adams and Miss Rahim, I thank them for their input. I also thank the Minimum Wages Board for they had looked at it—it is a tri-partite board—and they have agreed to it and we have, at the Ministry, been putting all our legislation through the tri-partite process and we will continue to do so as we go on. So let me thank you again and hope that you will support the amendments.

Mr. Vice-President, I beg to move, That a Bill to amend the Minimum Wages Act, Chap. 88:04 be now read a second time. [*Desk thumping*]

3.40 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 3.

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

Sen. Dr. St. Cyr: Mr. Chairman, I was wondering whether we might not modify the definition of judge by adding words to the effect of “or anyone qualified to preside”.

Mr. Partap: The reason we had mentioned “President, Vice-President or Chairman of the Essential Services Division” is because these three officers preside over fora and the judge who sits there has to issue warrants to enter property, so we felt that we should give that to a judge, somebody who sits in a court. The President does it; the Vice-President and also the Chairman of the Essential Services Division. So, that is the rationale for doing it in this way.

Sen. Dr. St. Cyr: Yes. I quite understand that is what we are doing but by putting it in this way, I think we are implying that the others are not “judges” and I thought that we may just say the same thing without implying that other thing.

Mr. Chairman: Bear with us, a little time off for consultation.

I suggest that we stand down this particular clause, move on and come back to it at the end of consideration of the Bill.

Clause 3 , by leave, deferred.

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. Chairman: We have an amendment as circulated by the hon. Minister that, in fact, consolidates with his previous circulated amendment so he has an amendment to clause 6. Mr. Minister.

Mr. Partap: Mr. Chairman, I beg to move the following amendment:

Delete section 22A(2) and substitute as follows:

“(2) On examining the report submitted to him the Minister shall, where a breach of the provisions of the Act is identified, deem the report to be made pursuant to section 51 of the Industrial Relations Act, and the Report shall be treated in accordance with the provisions of Part V of the Industrial Relations Act.”

Minimum Wages (Amdt.) Bill
[HON. H. PARTAP]

Tuesday, December 14, 1999

Delete section 22B(3) and substitute as follows:

“(3) Upon such matter being reported to the Minister, and where a breach of the provisions of the Act is identified, the Minister shall deem the report to be made pursuant to section 51 of the Industrial Relations Act and the report shall be treated in accordance with the provisions of Part V of the Industrial Relations Act.”

Mr. Chairman: We have two amendments to clause 6, one deleting section 22A(2) and the other deleting section 22B(3) and substituting with the words of the circulated draft. Any comments? Sen. Daly.

Sen. Daly: The capital P in the last line in the word “Provisions” should be common “p”, to be consistent with (3), I think it is a typo.

Mr. Partap: It is a typo.

Mr. Chairman: Okay.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clauses 7 and 8 ordered to stand part of the Bill.

Clause 9.

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

Mr. Chairman: Again, we have an amendment as circulated by the hon. Minister.

Mr. Partap: Mr. Chairman, I beg to move the following amendment:

“Delete the clause and substitute as follows:

Section 25 of the Act is repealed and replaced as follows:

25 (1) In any case where an employer has been found by the Industrial Court to be guilty of paying less than the statutory minimum remuneration to any worker, the employer shall be liable to pay to the worker a sum equal in amount to the difference between the amount actually paid as remuneration and the statutory minimum remuneration in addition to compound interest at a rate to be determined by the Court.”

Mr. Chairman: Okay. The entirety of clause 9 is being replaced by the new clause as circulated. Does everybody have the new clause starting with “Section 25 of the Act”? Any comments?

Sen. Dr. St. Cyr: I assume that this clause will apply only from the date on which the Act is proclaimed.

Mr. Partap: Yes, that is so.

Mr. Chairman: Yes. There is no retroactivity.

Question put and agreed to.

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

Clauses 10 and 11 ordered to stand part of the Bill.

Mr. Chairman: We have to get back to clause 3.

Clause 3 reintroduced.

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

Mr. Chairman: We are looking at the suggestion by Sen. Dr. St. Cyr. Minister.

Mr. Partap: Yes, Mr. Chairman, we are deleting the word “judge” and substituting the word “court” and “court” to be defined as in the Industrial Relations Act. As a consequence of this amendment, we have to go back to clause 5(b).

Mr. Chairman: Any other place?

Mr. Partap: No.

Sen. Mark: Yes. That is it.

3.55 p.m.

Mr. Partap: Mr. Chairman, I propose the following amendment to clause 3:

Substitute for the word “Judge” and its definition the following words “Court means the Industrial Court established under the Industrial Relations Act”.

Question put and agreed to.

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

Clause 5 recommitted.

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

Mr. Partap: Mr. Chairman, I propose the following amendment to clause 5:

In paragraph (b) line 3, substitute for the word “Judge” the word “Court”.

Minimum Wages (Amdt.) Bill

Tuesday, December 14, 1999

Question put and agreed to.

Clause 5, as amended, again ordered to stand part of the Bill.

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

Senate resumed.

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

ENVIRONMENTAL MANAGEMENT BILL

Order for second reading read

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

That the Bill to repeal and re-enact the Environmental Management Act, 1995 and to validate all acts and things done thereunder, be now read a second time.

The honourable Senate has before it the Environmental Management Bill, 1999, together with the list of amendments to the Bill. This Bill is in compliance with the undertaking which the Government was given to bring the Bill in its original form to the House. In doing this, however, I must apologize that there has been some inconvenience to Senators in that after it was typed, there were found to be errors and it had to come back again. I do apologize. We could not have found the disk on which the original Bill was, so it meant having it typed over. There are, however, certain amendments, because in doing over the Bill, it was found that there were certain errors and they are not in substance; they are just typographical. I will mention them as we go on.

I think Senators are very familiar with the Bill and they will forgive me if I do not deal with the contents of the Bill in any detail or in any way, whatsoever. This Bill, however, needs a specified majority because it alters certain provisions of the Constitution. The list of amendments, as I said, contains omissions that were caused because when the Bill was being originally prepared, there were certain errors. Mr. Vice-President, the Bill and the list of amendments reproduce the Act of 1995 in substantially the same form, except for some minor changes to the text of the 1995 Act. May I just say what those changes are.

Sen. Mohammed: Thank you for giving way. I am wondering what list of amendments you are referring to as you speak about the Bill.

Hon. R. L. Maharaj: I was under the impression that the list of amendments was circulated. I wish to assure Members that they are not substantial. We can do it. I will talk about other parts of the Bill before we come to the amendments.

Mr. Vice-President, it would be recalled that when this Act came into force in 1995, it was passed with a simple majority, and what occurred is that both the commission and the authority were regarded as having certain powers which were regarded as coercive powers and questions arose at that time about whether the Bill could have stood the scrutiny of it not being unconstitutional. It would seem that time has shown that no one tested that point, and that when we came with this measure to the Senate, good sense prevailed. I must congratulate the Opposition and the Leader of the Opposition in the Senate for the states-woman like stand that she has taken in allowing party political considerations to be buried in order to foster national good. [*Desk thumping*]

What the amendments really do, if one looks at the amendments, one would see that section 7(3), the words “may be” were omitted from line 2 of this subsection. They are now included. In clause 84, the financial year of the fund was stated to be January 1 to December 31 each year. This has been replaced to bring it into conformity with the financial year which now applies to the state-owned institutions: October 1 to September 30. In clause 84(1), the words “subject to section 3(2) of the Constitution” were deleted. These words do not relate to the text of the section. Section 3(2) of the Constitution defines what is meant by reference to an appointment to any office and a reference to the holder of an office, but section 84 provides for the exercise of the jurisdiction of the commission.

At clause 7, the figure “34” was incorrect and has been replaced by the figure “69”.

At clause 85(4), the word “court” was incorrect and has been replaced by the word “commission”.

At clause 7, the words “rules of the commission” have been replaced by the words “regulations made under this Act”. This amendment brings the provision into conformity with section 90 which provides for the President to make regulations for this part of the Act.

Clause 96 of the Bill provides for the validation of acts or omission of things done or omitted to be done under the former Act, while clause 97 would repeal the Environmental Management Act, 1995.

Those are the matters which we have changed—

Sen. Prof. Kenny: Mr. Vice-President, the critical change which we must effect here is in clause 82(2). This 82(2) says that “the Chairman and Deputy Chairman of the Commission shall each be an attorney-at-law and shall be appointed by the President”. I think that the amending Bill which was brought before was going to have this done by the President on the advice of the Judicial and Legal Service Commission. That is the crux of what we are doing.

Hon. R. L. Maharaj: Mr. Vice-President, I thought that we were coming to the Senate with the Bill in its original form, but if a Senator would like to get that amended, we can discuss that. I do not have any problem with that. I was bringing this Bill in the form of the 1995 Act.

I know that when we came with the amendment to this Act, we were saying that we wanted it that way, and the reason we gave is that it could not have been a simple majority if one was going to have the persons appointed by the Executive, but I do not have any problems if it is that Senators want to discuss that at the committee stage or even on the floor of the House. We can discuss it, but it would seem to me that why we went this route is that we wanted the court to be like the Industrial Court and we did not want to have so much waiting for appointments, and so forth. If Senators feel they want to have that provision, it is something we can discuss.

Mr. Vice-President, in the Bill that has been typed, clause 16(1) was left out and we have inserted it once more. You will see it from the amendments. Basically, the point under 81(3), “the Commission shall be a superior court of record and have an official seal which shall be judicially noticed, and shall have in addition to the jurisdiction and powers conferred on it by the Act, all powers inherent in such a court”.

So, Mr. Vice-President, the Bill before us is, I can safely say, substantially what was in the 1995 Act, and that was the commitment which the Government has given. Having said that, we have come with the major change, and that is that the Bill needs to be passed by the specified majority. It alters the Constitution and, therefore, it needs at least a two-thirds majority.

On the question of the point which Sen. Prof. Kenny is raising that instead of the President making the appointment of the Chairman and Deputy Chairman, he is suggesting that it be the Judicial and Legal Service Commission or the President acting on the advice of the Judicial and Legal Service Commission; that

is a matter we can consider, but it would seem to me that when we came, we wanted this in a particular frame, a particular mould, and we obviously went with it on that basis.

Sen. Mohammed: Hon. Attorney General, I do not know if, perhaps, you can clarify section 84(1) of the original Act in relation to what is in your draft Bill, which seems to be different from what the original Act has? Clause 84(1) of the Bill states:

“Subject to section 3(2) of the Constitution, the jurisdiction and powers of the Commission may be exercised by the Chairman or the Deputy Chairman, and two other members selected by the Chairman or Deputy Chairman, as the case may be, for the purpose of any case or proceeding which may be brought before the Commission.”

4.10 p.m.

Hon. R. L. Maharaj: I think the hon. Senator did not hear when I explained that. I did say that under clause 84(1) the words “subject to section 3(2) of the Constitution” were deleted. The reason for that is these words do not relate to the text of the section. Section 3(2) of the Constitution defines what is meant by “a reference to an appointment to any office and a reference to the holder of an office” It seems as though it was, by error, put in the 1995 Act. Section 84 provides for the exercise of the jurisdiction of the commission.

Sen. Mohammed: I wanted to know whether these have affected the role of the other members of the commission in terms of its functions?

Hon. R. L. Maharaj: Mr. President, I beg to move,

That a Bill to repeal and re-enact the Environmental Management Act, 1995 and to validate all acts or things done or omitted to be done thereunder, be read a second time.

Question proposed

Sen. Nafeesa Mohammed: Mr. Vice-President, on the last occasion when this Bill was being debated, we did, in fact, indicate to this honourable Chamber that we would be prepared to support the revalidation and re-enactment of the 1995 Environmental Management Authority Act in its original form; bearing in mind the concerns that we had expressed on this side during, the course of the debate, with respect to the proposed amendments that were being brought by the Government at that time.

Upon perusal of the Bill that was presented to us, we are very relieved to see that some of the omissions and concerns that we had, much of it, have in fact been dealt with by the new list of amendments that was circulated a few minutes ago.

Environmental Management (Amdt.) Bill
[SEN. MOHAMMED]

Tuesday, December 14, 1999

When the hon. Attorney General made mention of the fact that a special majority was required for the passage of this Bill, he read from an opinion that was given some time in 1995. I think he indicated that it was an opinion by the Law Commission and it was signed by Justice Guya Persaud. I am aware of the fact that there were other opinions that suggested that no special majority was in fact required.

Notwithstanding the arguments for and against, Mr. Vice-President, being a very responsible political organization, a party that has served this country for some 34 years in government and now in opposition, we continue to discharge our responsibilities in a very serious way. [*Desk thumping*] We will not obstruct Bills for the sake of obstructing them. If it is that the view is that there is a need for a special majority in order to make the 1995 Act workable, we have already indicated our party's position is that we are prepared to give the necessary support in order to revalidate and re-enact that 1995 Environmental Management Authority Act. [*Desk thumping*]

We are prepared to go further and say that—based on Sen. Prof. Kenny's comments a while ago, about the need to have the advice of the Judicial and Legal Service Commission, in terms of the appointment of the Chairman and Deputy Chairman of the commission—if it is so desired that that insertion be made—we are also prepared to support that amendment in the interest of getting this authority on stream and going.

Mr. Vice-President, we had outlined our major concerns previously and it seems as though it is being left in its original form. We are prepared to give the necessary support to enact this legislation.

Thank you very much, Mr. Vice-President. [*Desk thumping*]

Sen. Prof. Julian Kenny: Mr. Vice-President, I have—let us put it another way. I really appreciate being part of the history of this country in that, we are in a situation where, perhaps, we do not understand all the fine details but we are dealing with an issue in which both sides of the Senate want something. We have come together and we are going to get—not only a special majority, I am sure that we are going to get—the unanimous support of this Senate. [*Desk thumping*]

Mr. Vice-President, there are a number of issues that face this country. In the four years that I have been here I have wondered what exactly was I doing. A lot of the times there seem to be unnecessary fighting and bickering. Certainly the environment—as Sen. Prof. St. Cyr has pointed out—is one of these broad areas

that requires cross-party support. I think there are other areas as well. For example violence in the society, we cannot look at this thing in partisan terms, we have to look at it in terms of the causes of violence and how do we change the society. Poverty is another one. There are many issues in which, I think, that we will have to recognize that we have to develop that maturity that we see here this afternoon.

We have before us now more than one Bill which, in my view, requires that kind of treatment. My reading of the Constitution and two of the Bills which are before us, one is the Planning and Development of Land Bill which has been sitting in limbo for about two years. It has been held up on this problem of the special majority. If we look at the Parks and Protected Areas Bill, we have problems there because it is not only an issue of whether a High Court is being set up. Section 5 of the Constitution prohibits Parliament from passing any law which abrogates the rights under section 4. The Parks and Protected Areas Bill, for example, is going to interfere with freedom of movement under section 4(g).

4.20 p.m.

There are roads in this country which citizens have used since the last century. You set up a park which is going to enclose this area, therefore you are going to prevent people access. I am all for protecting the environment, but we have a right that is going to be curtailed.

Similarly, with respect to property, in this country we have a right to the enjoyment of property and the High Court has already ruled this is not simply a matter of acquiring, holding and disposing of property. In that Bill, and in the Planning and Development of Land Bill, we have exactly the same thing, we have property rights. The Parks Bill is going to tell you what you may or may not do on your property.

Similarly, we have passed here what, to me, is nonsense legislation; the amendment to the Forests Act where we are telling people what they may or may not do on a slope of land. This is their private property; they have a basic right to enjoy that.

So I mentioned this because, as we go through this, we arrive at a point where clearly, this Bill required a special majority and we have arrived at a point where we are getting unanimous support.

I think, Mr. Vice-President, it is not necessary for me to speak at any greater length except on the one point which I have raised and this is the question of the appointment of the Chairman and Deputy Chairman. Now my understanding—it

Environmental Management (Amdt.) Bill
[SEN. PROF. KENNY]

Tuesday, December 14, 1999

is obviously not my discipline—was that when you are establishing a new High Court, that you are appointing, in effect, two judges and you could only do this by going through the Judicial and Legal Service Commission. Now, if it is possible to appoint High Court judges by the President, I am not quite sure whether the President means the President in his own discretion or the President under the advice of Cabinet. So, this is something that needs a bit of clarification.

The other point I would like to make is a suggestion. When we get to committee stage we might consider that under clause 26 which deals with rules, any rules produced by the authority, instead of being for the negative resolution of Parliament, which means that they are just laid here and become law, that they be subjected to affirmative resolution. My reasoning is that we are setting up an authority with immense powers—this is the Environmental Management Authority—to tell businesses, individuals, what they may or may not do and they are setting up this thing in an orderly way with a set of rules.

Now, if you are going to have these rules just simply laid, or whatever the public consultation is, I think Parliament, being the supreme body in the land, really ought to have, at least, the opportunity to look at these rules. The rules may be perfect and they may not require a debate, but I think that Parliament really ought to be a watchdog, it ought to scrutinize what goes on with the authority. I am suggesting this as one minor change, with which I hope the Opposition and the Government will go along.

I think, finally, Mr. Vice-President, we can settle this thing in a matter of a few minutes in committee.

Thank you very much.

Sen. Dr. Eric St. Cyr: Mr. Vice-President, I will be brief, but I want to be very specific.

It seems to me that if the members of the commission are appointed by the President, the matter of the independence of this court could be in question and so, I want to support the proposal that clause 82(2) be simply amended by the addition of the words “on the advice of the Judicial and Legal Service Commission”.

I have two or three questions I want to ask. In clause 82(4), where we are told that members of the commission shall hold office for not less than three years, I want to ask: Can this be on indefinite tenure, which would obviously be for not less than three years? It seems to me that if this were suggesting that the normal

term of office would be three years, such a short term could rob this commission of the muscle, and the strength that greater continuity to its membership would imply.

I also want to ask: Under clause 82(6), should a member of the commission resign, does that person continue in office until judgements that he may be in the process of delivering are completed? Under clause 82(7), the President may remove from office. My question here is: Who would advise the President on the exercise of this function to remove?

Finally, under clause 84(8), it says:

“The Chairman of the Commission, when present, shall preside, and...”

in his absence, the Deputy Chairman. My question is: Can the commission sit if neither President or Deputy President is present?

My final comment is that there is no place in the Bill which defines the structure of what would constitute a meeting of the commission, whether chairman or deputy chairman and two or so members, but nowhere is that specified. I think it would be important that we put some structure in that regard.

I thank you very much, Mr. Vice-President.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, just a brief comment. I congratulate the Government and all the others who have been responsible for the preparation of this piece of legislation.

I studied it and I see this as—let me use an illustration—a motor car we have been assembling. Most importantly, I think—in looking at the document before us—is the engine. The engine has to be put in before there is any kind of life to this that we have been creating. That is, in clause 18, this national environmental policy, without that policy this Bill cannot work. I consider that to be at the heart of the Bill. You are suggesting that the national environmental policy and the environmental code be produced not later than two years.

Now, I think we should treat this matter with a sense of urgency. I want to suggest an amendment, bearing in mind since 1995 we have had an authority, that there should be an amendment that the national environmental policy and the code should be formulated by December, 2000. *[Interruption]* Why the two years? So we have it. Anyhow, thank you for that.

I am worried about clause 53, then. It is my second concern.

Environmental Management (Amdt.) Bill
[SEN. REV. TEELUCKSINGH]

Tuesday, December 14, 1999

“The Authority may require and grant permits to authorise any process releasing water pollutants...”

I am very concerned about this. Maybe somebody could help me in his or her response. Why is it in a small place like Trinidad and Tobago our rivers and streams have to be polluted? Why do we give authority and permits to 10 persons? Is it 10 persons on this authority, this board? Why do we give 10 persons the authority to pollute rivers and to what extent? Why is it that the streams and rivers in Martinique, Dominica, France and Florida could be so clean that we have to import water? What is happening? Could we have a national consensus that all our rivers and springs in this small island should be pollution free? It is a very important thing that we need to consider at this time. Why is it that we have 42 brands of bottled water on sale on the local market? Is it because we just decide to pollute all our rivers and springs?

I really do not like clause 53, certainly. Why should an authority continually be given this kind of permission to pollute our springs and rivers in this land? It is one of the issues I think that we have to deal with. I do not think that we should allow anyone, authority or not, that is the EMA, none of them should be given the permission to release water pollutants to further pollute our water courses in this small country.

I thank you.

Sen. Martin Daly: Mr. Vice-President, I will be brief.

I have not as yet seen any amendments circulated in connection with clause 82. As I understand it, one major purpose of this joint exercise was to secure that the Judicial and Legal Service Commission would have a say in the appointment of Chairman and Deputy Chairman.

So, likewise, I assume that we will circulate an amendment in relation to clause 82(7) which would tie in the removal of the Chairman and Deputy Chairman to the Judicial and Legal Service Commission. As far as I am concerned, until we have that, well what we have worked so hard to achieve is not complete.

With regard to clause 82(4), I would be proposing in committee the term be not less than five years and my reason is very simple. I had cause earlier today to speak about what has been happening in the Industrial Court over the years under all governments. I will repeat it briefly. It is that under all governments, including this one, people who are appointed for fixed terms in the Industrial Court, whether

it is for three years or five years, find that their term expires and they are not told anything. Sometimes they get an extension of two months, and then they get a renewal. My point is: it is a discourtesy and a procedural impropriety to have people not being told something, one way or the other, by the end of their term.

My purpose for inserting five years is that generally speaking, if someone has tenure for five years, their term of office will straddle the life of more than one Parliament and, at least, that way, we have some safeguard—not this Government—that any government is not waiting on a three-year term to pounce and remove a member. It is a very small step toward security of tenure, but I would like the Government to consider five years instead of three, in light of what is happening at the Industrial Court, and happened as recently as November 30, 1999.

Thank you, Mr. Vice-President.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I think we have a misunderstanding of what we are about here. This Bill did not come because of the Judicial and Legal Service Commission. That is not correct at all. As a matter of fact, there is another Bill which is before this Senate which was being debated, and the position was, because the Bill was passed by a simple majority, if you had to appoint the persons to administer the tribunal, then you had to have the legal persons appointed by the Judicial and Legal Service Commission, because of the case of Hinds, as decided by the Privy Council.

When that point was being explained and the history of the 1995 Act was being given, there were exchanges and the commitment was that, if you would support the Bill in its original form, we will stay that debate and bring the Bill in its original form. At that time nobody talked about five years, nobody talked about the Judicial and Legal Service Commission.

The point of the Industrial Court was raised. The Industrial Court matter and how they appointed had been going on, not only under this administration, but also under previous administrations.

4.35 p.m.

If people had contracts for three years and they expired, previous administrations have not renewed them because they knew that they expired after three years and other people were given opportunities, from time to time. The Industrial Court has been operating on that basis under previous administrations in the same way.

Environmental Management (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, December 14, 1999

The fact of the matter is, the Bill we have before us—and I want it to be clearly understood—is one which both the Independent Senators and the Opposition Senators agreed that it will come in its original form. I am not saying that at the committee stage we cannot discuss the other matter, but I just want to get the records clear. This has nothing to do with any five years or factor that there was any undertaking given that we would come with it under the Judicial and Legal Service Commission.

I do not want to go into why sometimes it was decided not to have the commission make appointments in tribunals like this. This tribunal is not appointing judges. They are not people who will have security of tenure as a High Court judge. The Industrial Court could have been structured as it was because it was felt that having regard to the kind of tribunals, there would have to be flexibility in many areas. That is why even in respect of an appeal from the Industrial Court, it is not on relation of facts, but on relation of a point of law alone.

It is thought that in having tribunals like these you would have change of rules. So that the persons who are going to be appointed, or who under the 1995 Act were to be appointed, were not people who would have security of tenure as a judge. They would not have their terms and conditions fixed by the Salaries Review Commission and have tax-free salaries and so forth. That was not the case under the 1995 Act. If you are setting up a tribunal like this, obviously you would want to consider—I remember that there were many arguments why this tribunal had to be set up like this. I remember that debate in 1995 very clearly.

Mr. Vice-President, I move that the Bill be read a second time. Perhaps, after the tea break, when we are going through the committee stage, we can discuss these matters.

Thank you.

Question put and agreed to.

Bill accordingly read a second time.

Mr. President: Before we carry this Bill to the committee stage we will break for tea. We will resume at 5.15 p.m.

4.40 p.m.: *Sitting suspended.*

5.18 p.m.: *Sitting resumed.*

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: What we have in front of us is the Environmental Management Bill, 1999. There are 98 clauses divided into nine Parts. With your approval we will attempt to take the Bill Part by Part. Where we have proposed amendments we will deal with those sections as part of that particular Part. Do I have your agreement?

Assent indicated.

Mr. Chairman: So we start with Part I.

Clauses 1 to 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 16 be amended in terms of the circulated draft which means inserting subsection 16(1) which reads as follows:

“16 Insert the following sub-section:

- ‘16. (1) The general functions of the Authority are to—
- (a) make recommendations for a National Environmental Policy;
 - (b) develop and implement policies and programmes for the effective management and wise use of the environment, consistent with the objects of this Act;
 - (c) co-ordinate environmental management functions performed by persons in Trinidad and Tobago;
 - (d) make recommendations for the rationalisation of all governmental entities performing environmental functions;
 - (e) promote educational and public awareness programmes on the environment;
 - (f) develop and establish national environmental standards and criteria;
 - (g) monitor compliance with the standards, criteria and programmes relating to the environment;
 - (h) take all appropriate actions for the prevention and control of pollution and conservation of the environment;

Environmental Management (Amdt.) Bill
[HON. R. L. MAHARAJ]

Tuesday, December 14, 1999

- (i) establish and co-ordinate institutional linkages locally, regionally and internationally;
- (j) perform such other functions as are prescribed; and
- (k) undertake anything incidental or conducive to the performance of any of the foregoing functions.’;”

Mr. Chairman: The amendment to clause 16 is the insertion of the entire clause 16(1) which appears to have been omitted from the preparation of the Bill before us which jumps, I think, from 15 to 17.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 17 ordered to stand part of the Bill.

Clause 18.

Question proposed, That clause 18 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 18 be amended in terms of the circulated draft as follows:

- “18(1) Delete the word ‘Police’ in line five and substitute the word ‘Policy’;
- (4) Delete the word ‘consideration’ and substitute the word ‘considering’;”

It is really a spelling amendment, substituting the word, “Policy”, for the word, “Police”, and the word, “Consideration”, for the word, “Considering”.

Sen. Mohammed: Mr. Chairman, I just want to ask a question and that is whether the hon. Attorney General would envisage any problems in terms of the time period that was stipulated. Then too, bearing in mind the fact that this was a 1995 Act and in clause 18(1) it talks about the policy being laid not later than two years after the commencement, and bearing in mind too that the title of the Bill that we have is the “Environmental Management Bill 1999”, would that cause any problems?

Dr. Mohammed: The national environmental policy was laid in this Parliament in September of 1998.

Sen. Mohammed: Yes, I know. But I was just wondering if there would be any conflict or confusion, bearing in mind the Bill is called the 1999—
[*Interruption*]

Mr. Maharaj: Yes, we have a validating clause and the policy would not
[*Interruption*]

Mr. Chairman: Okay, we have the two minor amendments circulated by the Attorney General.

Question put and agreed to.

Clause 18, as amended, ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Sen. Rev. Teelucksingh: Mr. Chairman I have questions about clause 19. Thank you for reminding me that we have a policy. When will we get the environmental code? Do we have the code?

Dr. Mohammed: The environmental code is presently being prepared. We have a tentative date of March 2000 for full compliance with respect to the establishment of the environmental code. We have now put all the pieces of legislation, 100-odd, together. At present the rules are being prepared to be fitted appropriately within the framework of the environmental code.

Question put and agreed to.

Clause 19 ordered to stand part of the Bill.

Clauses 20 to 21 ordered to stand part of the Bill.

Sen. Prof. Spence: Mr. Chairman, is it always the practice that where there is a typing error we do not have to approve them clause by clause? Do we not just treat them as typing errors when we get there? For things like “environmental” instead of “environmentally” and so forth, can those not be considered typing errors?

Mr. Maharaj: I was told that in the light of the fact that they are—
[*Interruption*]

Sen. Prof. Spence: All right, let us not waste time. If we have to do it let us do it.

Mr. Maharaj: That is unless we can take them *en block* probably. Most of these are typing errors that we might want to take—[*Interruption*]

Clause 22.

Question proposed, That clause 22 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 22 be amended as follows:

“22(2)(a) Insert the word ‘the’ at the commencement thereof;”

Question put and agreed to.

Clause 22, as amended, ordered to stand part of the Bill.

Clauses 23 to 25 ordered to stand part of the Bill.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 26 be amended as follows:

“26(k) Delete the word ‘environmentally’ and substitute the word ‘environmental’;”

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

5.30 p.m.

Clauses 27 to 32 ordered to stand part of the Bill.

Clause 33.

Question proposed, That clause 33 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 33 be amended as follows:

In subclause (2)(a), delete the word “intergovernmental” and substitute the word “intragovernmental”.

Question put and agreed to.

Clause 33, as amended, ordered to stand part of the Bill.

Clauses 34 to 68 ordered to stand part of the Bill.

Clause 69.

Question proposed, That clause 69 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 69 be amended as follows:

Delete paragraphs (c) and (d) occurring immediately before subsection (2).

Question put and agreed to.

Clause 69, as amended, ordered to stand part of the Bill.

Clause 70.

Question proposed, That clause 70 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 70 be amended as follows:

In subclause (2), delete the word “year” and substitute the word “years”.

Question put and agreed to.

Clause 70, as amended, ordered to stand part of the Bill.

Clauses 71 to 76 ordered to stand part of the Bill.

Clause 77.

Question proposed, That clause 77 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 77 be amended as follows:

In subclause (4), delete the words “satisfactory authority” and substitute “Statutory Authority”.

Question put and agreed to.

Clause 77, as amended, ordered to stand part of the Bill.

Clauses 78 to 80 ordered to stand part of the Bill.

Clause 81.

Question proposed, That clause 81 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 81 be amended as follows:

Delete subclause (3) and substitute the following—

- (3) The Commission shall be a superior court of record and have an official seal which shall be judicially noticed, and shall have in addition to the jurisdiction and powers conferred on it by this Act all the powers inherent in such a court.

In subclause (5)(e), insert after the word “environmentally”, the words “sensitive areas or environmentally”.

Mr. Chairman: We have two amendments to clause 81; one at subclause (3) and the other at subclause (5)(e). If there are no comments, I will put the question.

Question put and agreed to.

Clause 81, as amended, ordered to stand part of the Bill.

Clause 82.

Question proposed, That clause 82 stand part of the Bill.

Sen. Mahabir-Wyatt: In subclause (2), we had said we wanted to add the words “on the advice of the Judicial and Legal Services Commission”.

Hon. Senator: I had withdrawn that.

Sen. Mahabir-Wyatt: Had you withdrawn it?

Hon. Senator: Yes.

Sen. Mahabir-Wyatt: Okay.

Mr. Chairman: Do you have a comment Sen. Dr. St. Cyr?

Sen. Dr. St. Cyr: It seems to have been withdrawn. [*Laughter*]

Mr. Chairman: Very much appreciated.

Sen. Daly: May I say I think it is important for the record to reflect that what the Attorney General said is correct, that the basis on which we agreed on tri-partisan support for the Bill was that it would be like the original. So that was the basis on which we accepted.

Mr. Chairman: I will put the question again to make sure we have it right.

Question put and agreed to.

Clause 82 ordered to stand part of the Bill.

Clause 83.

Question proposed, That clause 83 stand part of the Bill.

Mr. Maharaj: Mr. Chairman I beg to move that clause 83 be amended as follows:

- A Insert after the word “prescribed”, the words “by Order of the President” and delete the words “in accordance with section 141 of the Constitution”.
- B Insert the following subsection—
 - (2) Such other conditions of service shall be applicable to the Chairman, Deputy Chairman and other members of the Commission as may be prescribed by Order of the President.
- C Renumber subsection (2) as subsection (3).

Mr. Chairman: There are three amendments detailed in the circulated draft to clause 83. If there are no comments, I will put the question.

Question put and agreed to.

Clause 83, as amended, ordered to stand part of the Bill.

Clause 84.

Question proposed, That clause 84 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 84 be amended as follows:

In subclause (1), insert immediately after the words “Deputy Chairman” in line one, the words “and two other members selected by the Chairman or Deputy Chairman.”

In subclause (2), insert after the word “alone” the words “or with one other member if the parties consent thereto.”

Mr. Chairman: We have two suggested changes, one to subclause (1) and the other to subclause (2). Sen. Dr. St. Cyr.

Sen. Dr. St. Cyr: Mr. Chairman, I think these are very, very acceptable amendments but may I ask: Is what is represented in the Bill before the amendment, exactly what was in the old Act? Or, is this a typo that is being—

Mr. Maharaj: Mr. Chairman, the hon. Senator would remember that I took off the words “subject to section 3(2) of the Constitution” and then explained that those words had no place there because section 3(2) did not apply to that. Apart from that, it is the exact wording.

Sen. Dr. St. Cyr: My question is answered. Thank you very much.

Question put and agreed to.

Clause 84, as amended, ordered to stand part of the Bill.

Clause 85 ordered to stand part of the Bill.

Clause 86.

Question proposed, That clause 86 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 86 be amended as follows:

“In subclause (5), delete the words “and fact” occurring in line three.”

Mr. Chairman: The amendment has been circulated. I put the question.

Question put and agreed to.

Clause 86, as amended, ordered to stand part of the Bill.

Clauses 87 to 93 ordered to stand part of the Bill.

Clause 94.

Question proposed, That clause 94 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 94 be amended as follows:

In subclause (1), delete the word “one” in the penultimate line and substitute the word “on”.

In subclause (2), delete the word “Funds” in line two and substitute the word “Fund”.

Mr. Chairman: There are two amendments to clause 94 at subclause (1) and subclause (2).

Question put and agreed to.

Clause 94, as amended, ordered to stand part of the Bill.

Clauses 95 to 98 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Bill reported, with amendment.

Question put, That the Bill be now read the third time

Mr. Vice-President: This Bill requires the support of not less than two-thirds of all the Members of the Senate. Accordingly, a division is required. I now call on the Clerk to so do.

The Senate voted: Ayes 28 Noes 0

AYES

Mark, Hon. W.

Kuei Tung, Hon. B.

Theodore, Brig. The Hon. J.

Phillips, Dr. The Hon. D.

Gangar, Hon. F.

Gillette, Hon. L.

Tota-Maharaj, Hon. V.

Cuffy Dowlal, Miss C.

Baksh, N.

John, S.

Gray-Burke, Rev. B.

Moore, N.

Williams, Mrs. A.

Cowie, D.

Dhanny, Dr. G.

Mohammed, Miss N.

Montano, D.

Alfred, Miss C.

Shabazz, M.

Belmontes, Miss C.

[*Desk thumping*]

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K.

[*Desk thumping*]

Mr. Vice-President: It gives me great pleasure to announce the results of the division. There were 28 votes for and none against. [*Desk thumping*]

Question agreed to.

Bill accordingly read the third time and passed.

Hon. R. L. Maharaj: Mr. Vice-President, before the hon. Leader of the Senate moves the motion for the adjournment, may I be permitted, in the light of what the Senate has done, having regard to the last decision of the Senate, I now wish to move that the Order for the second reading of the Environmental Management Bill be discharged. Remember there was the Bill we were doing.

Thank you very much.

Question put and agreed to.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, before moving to adjourn this honourable Senate, I would like to inform fellow Senators that we are going to be sitting for the last time tomorrow and we are going to try to see if we can get through with one or two small Bills. I advise fellow Senators of the areas we will try to conclude tomorrow.

Adjournment

Tuesday, December 14, 1999

We have the Dangerous Dogs Bill—that is one we want to complete. We want to deal with the Criminal Procedure (Amdt.) Bill, which is a simple one. We also want to deal with the Bill to amend the law relating to the distribution of the estates of deceased persons, and then we will complete the Tourism Development (No. 2) Bill.

5.45 p.m.

Sen. The Hon. W. Mark: Mr. Vice-President, seeing that we will probably want to deal with dangerous dogs first—

Sen. Prof. Ramchand: Mr. Vice-President, I do not know if we have a chance to have a say in what comes first tomorrow, but I feel that if we are being dragged in here tomorrow to discuss important national matters, we should try to finish the Tourism Development Bill, and to put it last on the agenda would be to ensure that we just start it and do not finish it.

Sen. The Hon. W. Mark: Mr. Vice-President, with respect to my senior Professor, I would like to advance the order in which I have outlined the agenda for tomorrow—we could always have some amendment later on, but this is how I am suggesting that we proceed tomorrow, which is the final day, so we should have some peace as a community. That is the final day.

So, I just want to reiterate that we will be dealing with the Bill to amend the law relating to the distribution of estates of deceased persons, the Dangerous Dogs Bill, the Criminal Procedure (Amdt.) Bill, the Limitation of Certain Actions (Amdt.) Bill and the Tourism Development Bill. Those are the matters.

Mr. Vice-President, I beg to move that this Senate do now adjourn to Wednesday, December 15, 1999 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.49 p.m.