

*Leave of Absence*

*Wednesday, July 04, 2007*

**SENATE**

*Wednesday, July 04, 2007*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence from today's sitting of the Senate to Sen. Raziah Ahmed who is out of the country.

**SENATOR'S APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Professor George Maxwell Richards, T.C., C.M.T., Ph.D:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency, Professor GEORGE MAXWELL RICHARDS, T.D., C.M.T Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MR. WAYNE MUNRO

WHEREAS Senator Raziah Ahmed is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, 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, WAYNE MUNRO, to be temporarily a member of the Senate, with effect from 4th July, 2007 and continuing during the absence from Trinidad and Tobago of the said Senator Raziah Ahmed.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 3rd day of July, 2007.”

*Oath of Allegiance*

*Wednesday, July 04, 2007*

**OATH OF ALLEGIANCE**

*Senator Wayne Munro took and subscribed the Oath of Allegiance as required by law.*

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

*Order for second reading read.*

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam 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.

This Bill, which is an amendment to our Motor Vehicles legislation, is commonly known as the Breathalyzer Bill. It was the subject of the deliberations of a joint select committee comprising Members of this House and the other place, and the committee held a number of meetings, all of which are outlined in this report which I presume has been circulated to hon. Members of this Senate. But before I go into it I would firstly like to commend, in particular, the two experts who assisted the committee in its deliberations, Prof. Pinto Pereira, who is the professor; Department of Para-clinical Sciences at the Faculty of Medical Sciences, UWI, and also Dr. Sandra Reid, Consultant Psychiatrist, University of the West Indies, Director to the Caribbean Institute on Alcoholism and Other Drug Problems.

Also, the committee was greatly assisted in its work by members of a non-governmental organization known as "Arrive Alive". The persons who appeared before us were Mr. Kirk Waithe, Mr. Brent Batson, Mr. Om Lalla and Dr. Andrew Persad, who assisted us to understand the technical workings of breathalyzer instruments and the effect of alcohol on persons. In fact, at one stage the "Arrive Alive" team subjected three volunteers to alcohol testing. If my memory serves me right, one was a large male, one was a petite female and one was a medium-sized female, to put it that way. I was trying to find words to describe the other lady. But anyway, the point is, a large man, a small woman and a not so small woman, and different types of alcohol were administered; I think wine, beer, and so on. I think there was even some actual rum or whiskey. I cannot recall exactly what spirit was used. The persons had a number of drinks and a particular period of time was allowed to elapse and then they were tested for their blood alcohol content, using actual breathalyzer devices.

They were all given the same amount of alcohol and it was very surprising, the small woman went over the limit almost immediately; the large man remained below the limit and the medium-sized lady eventually was just at the limit or slightly over the limit. The point of that demonstration was to show the effects of body mass and gender in terms of the relationship between the physical characteristics of a person and the reaction to alcohol. It came out very clearly that small women are most susceptible to alcohol in terms of the absorption of alcohol in their bloodstream and the effect on their ability to drive. So all small women, beware. In fact, there was a Member of the committee who became quite concerned when she saw what had happened in terms of the effect of alcohol on persons in terms of gender and body mass, and so on. What it did demonstrate is that very large men can, in fact, drink more alcohol than smaller persons and still not be affected to the extent that they are over the legal limit.

**Sen. Mark:** “Stretch”.

**Hon. C. Imbert:** He would fall into the category of a large man. [*Laughter*]

But the point is—forgetting the slight jocularly—it was a very serious exercise and it all came home to us. Before I even go further, let me commend all Members of the committee, especially the Members of the Opposition who were not their usual selves in this committee; they were all very well-behaved, especially Sen. Dr. Gopeesingh, who was a model of decorum and dignity in the deliberations of—

**Sen. Dr. Gopeesingh:** Like begets like.

**Hon. C. Imbert:** Thank you for the compliment. But I must say that everybody who was a Member of the committee really contributed and assisted us in terms of getting a better understanding of the reason it is necessary to introduce the breathalyzer.

The medical practitioners, in particular, gave us a lot of insight into the effects of alcohol on the body and the effects of alcohol on drivers. It is all here in the committee report but, essentially, they were able to demonstrate to us that as persons begin to drink and as alcohol is absorbed into their bloodstream, their ability to respond to issues in terms of other vehicles on the road, other drivers; their ability to respond to potentially dangerous situations, become impaired. They were able to show us research data from other countries in terms of what happens to persons as they begin to drink and eventually when you get up to the legal limit, you are in no condition to drive. In fact, the vehicle becomes a dangerous weapon in the hands of persons who are over the legal limit.

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

While I am on that point, there is something I wish to stress—this is my view—that vehicles do not cause accidents; barriers do not cause accidents; people do, and the vast majority are caused by reckless driving, careless driving, by drunk drivers and by persons who simply have no regard for other people or for themselves, or for the rules of the road.

One of the other things that came up in the deliberations of the committee—and might I say that the Bill that is before this House today was passed unanimously in the other place; no dissent. Every Member, Opposition and Government present, voted in support of the legislation because the committee addressed the issues raised by the Opposition when the Bill was first introduced by myself in the other place. I will go through some of the issues in due course that we looked at and I will indicate how we dealt with the issues raised.

Before I get to that, a point was brought up in the other place with respect to the use of cellphones, because one of the issues raised was that driving under the influence is clearly a major cause of motor vehicle accidents, but it is not the only cause. I have indicated that reckless driving is an issue, but in other countries there have been moves for several years to ban cellphones while driving. I pulled up some data and I thought I would let this Senate know the countries that have banned the use of cellphones while driving. The countries that I have been able to determine are: Australia, Austria, Bahrain, Belgium, Brazil, Chile, China, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hong Kong, Hungary, India, Ireland, Israel, Japan. A whole host of countries have already banned the use of cellphones while driving. In the United States there are a number of States that are currently in the process of either debating legislation to ban cellphones or they have already banned the use of cellphones. California, Connecticut, the District of Columbia, New Jersey and so on, have already banned the use of cellphones while driving.

The reason is that all the empirical evidence suggests that the reaction time of drivers is seriously impaired when they are carrying on a conversation on a cellphone or attempting to dial a number on a cellphone while driving. I was able to pull up an article from February 2005 by a writer called Robert Britt, a life science senior writer who indicated that the cellphone distraction causes 2,600 deaths—this is his information—and 330,000 injuries in the United States every year. That is what the Human Factors and Economic Society journal has indicated. In addition, drivers talking on cellphones were 18 per cent slower to react to brake at lights and they took 17 per cent longer to regain the speed that they lost when they braked.

So, clearly, I think the case has been made. Of course, we will deal with this in due course when we come with further amendments to the Motor Vehicles and Road Traffic Act to deal with a number of issues, including the use of cellphones. But, clearly, when I go through the literature and I look at all the countries that have already banned cellphones, I think the case has already been made that dialing numbers, receiving calls and holding conversations on cellphones are serious distractions and major causes of accidents. That was, in fact, a matter raised by the Member of Parliament for Barataria/San Juan in the other place, with which I totally concur.

I would also like to give Senators some idea of the current statistics in terms of road fatalities. I pulled up the comparative data—and what the police has advised me today. These are the statistics. If I go back to 2001, there were 162 deaths resulting from road traffic accidents; the same number in 2002; it rose to 199 in 2003; 209 in 2004; 216 in 2005 and 209—is what I am seeing here; the text is a bit small—in 2006. If we look at the comparative figures for the first six months, there were 103 road traffic accidents for the first six months of 2006, resulting in 111 deaths, because we have a phenomenon here where you have multiple deaths arising out of a single accident. In 2007, for the first six months there were 104 road traffic accidents but a higher figure of deaths—124 deaths.

So it goes without saying that this legislation is long overdue and that was clearly the sentiment of all Members of the committee and it is clearly an area where considerable research is required after we pass this legislation. It is clearly an area where we need to go into the data; we need to see what has been the effect of the breathalyzer so that we can fine-tune the systems that we are putting in place and learn from the process; the actual experience in Trinidad and Tobago.

If you go into the legislation itself, we have selected a blood alcohol level of 0.08 and that is, in fact, the blood alcohol level that is set in the United States, in Europe and other countries. There are other countries in the world that have a lower blood alcohol level. In fact, the countries that have a 0.08 per cent blood alcohol limit are: Mexico, New Zealand, United Kingdom, United States and Canada. Some other countries, such as Argentina, Australia and so on, have a lower limit at 0.05. Some of the Scandinavian countries have even lower limits. But we felt, since we are introducing the breathalyzer for the first time that it would be best to go with a limit that is established in some of the more developed countries of the world, such as, as I said, the United Kingdom, United States, New Zealand, and so on, and then through research we can see how this limit is working and then determine whether we need to adjust this limit or we need to adjust the legislation itself.

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

If I go now into what was actually done in the committee, the committee went through the Bill clause by clause and one of the issues we dealt with immediately was, in fact, a small error in the legislation where, in amending clause 70, we had inadvertently deleted the provision with respect to driving under the influence of drugs. So we put that back in. We put back in the section with respect to driving under the influence of drugs. So we did not proceed with that amendment and we made further amendments.

We also dealt with the question of fines and the question of repeat offenders. If I go straight to the legislation itself on page 2, what we have done—well, the fines are there for you to see: \$5,000 for a first offence; \$10,000 for a second offence. But we went on to say that a person convicted of two consecutive offences shall—and here is where we gave the court a discretion:

“...unless the Court for special reasons thinks fit to order otherwise and without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of twelve months from the date of the conviction for holding or obtaining a driving permit;...”

Now, that flowed from representations made by Members of the Opposition in the other place who felt that—because the original Bill did not give any discretion and once the person was found guilty of two offences of driving under the influence, he would have been disqualified. It was felt that the concept of rehabilitation should apply. So this is why this has been drafted in this way and this is why we put in “unless the court for special reasons thinks fit to order otherwise”. That is for the court to determine whether somebody should do community service; whether somebody should go into rehab—

**Sen. Dr. Mc Kenzie:** Thank you very much, Madam President. I wanted to ask at this stage, in the declaration of two consecutive violations, if you want to call it that, if any thought was given to a lapse of time. In other words, what I want to ask is: Let us say you caught somebody over the limit at age 20; he or she does not commit an offence of this nature again until the person is 45. Obviously it is two consecutive, but there is a wide time lapse. That is the part that worries me a little, whether you would say: Within 10 years; within 1 years; within 5 years or whether this discretion that you have given to the court would allow for something like that.

**Hon. C. Imbert:** That is precisely why we amended the section in this way so that the discretion to look at the circumstances is now left to the court. So the court will determine that very example that you used. I could use a different

one—25 and 65—there might be a 40-year time period between the offences, But we decided to leave that up to the court and let the judicial officer decide. That is why we put it this way: “unless the court for special reasons thinks fit to order otherwise”. So we have given the court the discretion to determine whether it would proceed to disqualify the person.

I might also add, Sen. Dr. Mc Kenzie, that this is simply a disqualification in this first instance for 12 months, and then when you do it three times, that is it. We have decided that if a person has been convicted of driving under the influence three times, no discretion will apply and he or she would be permanently disqualified from holding or obtaining a driver’s permit. But in the context of the person who does it twice, we have given the court the discretion to determine, not only whether it should order a longer period—because we have set 12 months—but we have given the court the discretion to order a longer period if it sees fit. Because someone might be convicted today and then convicted six months from now, so obviously, this is a serious offender, so the court might want to disqualify him or her for five years or something like that. Or as you say, the other situation, we expect that the court would be reasonable in these circumstances.

In addition, the other changes that we made, because there are so many different types of breathalyzers, we felt that this should be dealt with by way of an order:

“The Minister may by Order approve the device to be used for the detection of drugs...”

Actually, no, this is dealing with the question of drugs and let me come to that.

There was a lot of discussion about why should we not also be testing for drugs. Now, the thrust of this legislation is to deal with blood alcohol content, not drugs. The other problem was the question of how do you test for drugs and what level do you set. Whereas it is legal to drink once you are over the age and you are in the privacy of your home, it is not legal to use narcotics or psychotropic substances—illegal drugs. So that someone might be caught, tested; you might find a microscopic amount of an illicit drug in his bloodstream—marijuana or something like that—but in order to connect that to his impairment level, how would you know? There is a lot more research that needs to be done on this. If you found somebody with cocaine in his bloodstream, maybe he should be in jail. It should not be a question of worrying about him driving. He should be dealt with for a much greater offence.

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

So we felt that at this stage we would just give the Minister the power to approve a device for the detection of drugs, but at this time there is no intention to do that. I can just tell you that there is saliva testing for drugs, but it is in the experimental stages at this point in time in several countries and there are not many countries, if any at all, that have developed a proper regime of testing for driving under the influence of narcotics. So let me move on now.

**Sen. Ali:** Madam President, could the Minister indulge me a bit? Before you leave clause 4, in subclause (1), the amendment to go from \$2,000 and \$4,000 to \$5,000 and \$10,000 which you said came from the parent Act, I downloaded up to last night the parent Act, subsection 70(1) and there it speaks of, “liable on first conviction to \$8,000 and to imprisonment for three years” and for a second conviction to a fine of \$15,000. So I would like to get clarification, because this is from the Ministry of Legal Affairs revised laws as posted on the website.

I went through this document here where the representative of the CPC quoted these \$2,000 and \$4,000 as from the parent Act. So I would like to raise that and to get clarification on it, please.

**2.00 p.m.**

**Hon. C. Imbert:** We will deal with that later in the session. We had full representation from the Chief Parliamentary Counsel (CPC) with Mr. Paul Griffith and a number of other senior attorneys, plus attorneys on the committee. The issue that you raised never came up. I do not have the document that you referred to before me. I am sure that I can clear that. In any event, we are looking at what is reasonable. The committee’s deliberation was geared to what would be reasonable in the circumstances. I will address that matter in my winding up, if not, before.

Clause 5 of the Bill before you now makes this an offence.

“70A(1) No person shall drive or attempt to drive, or be in charge of a motor vehicle on a road or other public place if he has consumed alcohol in such a quantity that the proportion thereof in his breath or blood exceeds the prescribed limit.”

The question came up as to what is “in charge of a motor vehicle”. A person may be in a motor vehicle but it may be difficult to pin down the person as the driver, but the person could have been in charge of the motor vehicle at the time that the offence was committed. This is where we go to the first conviction, to a fine of \$5,000 or imprisonment for six months. The second conviction is a fine of



\$10,000 or imprisonment for 12 months. It goes on to speak about the discretion of the court and is similar to the previous clause.

Throughout the deliberations of the committee we were concerned with the balance of the constitutional and human rights of persons and coming with serious legislation to deal with those who drive under the influence of alcohol. Page 4 subsection (4) states:

“No person shall be convicted under this section of being in ...charge of a motor vehicle...if he proves that at the material time, the circumstances were such that there was no likelihood of his driving the motor vehicle while there was alcohol in his breath or blood in a proportion exceeding the prescribed limit.”

The next clause gives the police the authority to arrest persons without warrant. These provisions require a special majority because we are taking away the person’s rights and giving the police the right to arrest persons without warrants who have committed offences against this legislation.

Page 4, section 70B(1) states:

“Where a constable in uniform or on showing his authority...has reasonable cause to suspect—

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his breath or blood exceeding the prescribed limit...”

The other recitals are similar situations. It continues,

“he may,...require him to provide a specimen of breath for a breath test at or near the place where the requirement is made.”

At this time I need to make a distinction between a breath test and a breath analysis. That took up much time of the committee. The breath test is the first test taken at the roadside which gives an indication that the person has a blood alcohol content over the prescribed limit. The devices are different. The breath test is normally done with a relatively small handheld device which a police officer will have in his patrol car or a mobile police station. The original device will give an indication that the person is over the limit.

When the handheld device gives a reading that the person is over the limit of 0.08 per cent, the police officer can require the person to go to a police station to do a breath analysis. That is done under controlled conditions with an instrument

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

which gives a printout. When the members of Arrive Alive came to us they had both types. They showed us how they worked and the printout which gives details of the analysis as the time, date and amount of alcohol in the person's breath. That is used as evidence for the prosecution thereafter. There is a clear distinction between a breath test and a breath analysis. The test is an indicator and the analysis is the evidence used to establish that the person has committed an offence.

Section 70B(4) states:

“Where a person...is at a hospital as a patient, he may be required by the constable to give a specimen of breath at the hospital but no such requirement may be made unless the medical practitioner in charge of his case—

- (a) is given prior notice of the proposal to make the requirement; and
- (b) does not object..”

Someone at hospital who has been injured in a motor vehicle accident—in this case, the driver—there is reason to suspect that he was drunk, the police officer has to get permission from the doctor who is attending to him. That is for good reason. You do not want a police officer to pull the person out of the bed and cause more injuries to test him or her to see if he or she is over the limit.

Another offence is:

“Where a person, without reasonable excuse, fails to provide a specimen of breath...”

A person can refuse. You are attempting to take a specimen of breath from a person and the person says, no. The person is presumed to be guilty. This is the philosophy behind this. He is liable on conviction to a fine of \$5,000 or imprisonment for six months.

You have the situation where a constable may arrest without warrant. Section 70B(6) states:

“A constable may arrest without warrant any person who, as a consequence of a breath test, is found to have a proportion of alcohol in his breath exceeding the prescribed limit...”

You cannot arrest him at a hospital.

**Sen. Seetahal SC:** In relation to subclause (6), this arrest without warrant is in relation to what offence? Usually an arrest is for an offence. You could arrest

without a warrant for other offences under the Act. Is it for purposes of investigation? That is not clear. Normally, you can arrest only on suspicion of an offence or for an offence. You could explain that.

**Hon. C. Imbert:** Section 70A(5) says:

“Any constable in uniform or on showing his authority as a member of the Police Service may arrest without a warrant, any person committing an offence under this section.”

Then it goes on to speak about “reasonable cause to suspect”. In this section it says that if the person “is found to have a proportion of alcohol in his breath exceeding the prescribed limit”, the constable can arrest without warrant.

If you go back to the creation of the offences at section 70A(1), it states:

“No person shall drive or attempt to drive, or be in charge of a motor vehicle on a road...if he has consumed alcohol in such a quantity that the proportion thereof in his breath or blood exceeds the prescribed limit.”

Subsection (6) refers to the person who is driving; attempting to drive or in charge of a motor vehicle. If you are concerned about the drafting we can settle that. The offence is driving under the influence.

Page 7 talks about the person failing to provide the specimen of breath for the breath test. This creates another offence where the person refuses or fails to provide the specimen of breath and the constable suspects that the person is over the limit, the constable can arrest the person without a warrant. In this particular case, the offence is refusing to provide the specimen of breath for the breath test.

Subsection (8) was borne out of the wish of the committee to protect the rights of a person and to make the legislation as watertight as possible so that you would get a conviction. The person arrested under subsection (7), that is a person refusing to give a breath test while the constable suspects that he or she is over the limit, shall be given the opportunity to provide the specimen of breath when taken to a police station. The police see a car swerving; someone is driving dangerously or a person has just been involved in an accident; the police chase the person and hold him or her, and ask the person to take the breath test at the roadside right away and the persons says, no.

The police officer would do the sobriety tests, as stand on one leg; touch your nose; hold your hand behind your back; walk a straight line and the various things you see on television. The person may have a powerful smell of alcohol and their

eyes may be glazed. The police officer has got a sense of the person that this person is probably under the influence; asks the person to supply a specimen of breath and the person says no. He then takes the person down to the station. When the person goes to the station he or she would be given another opportunity to provide a specimen of breath. If the person refuses, it is a fine of \$5,000 or six months imprisonment. Why would a person not wish to give a sample of breath for analysis under these conditions?

We have made a provision here that would allow the Minister by order to approve the devices because there is a multitude of devices. You must have some way of regulating the devices that would be used to test persons driving under the influence.

We go to the breath analysis. I drew a distinction between the breath test on the roadside and the breath analysis in the police station. As you go through section 70C. if the person who is required to undergo the breath test fails to do so, or the person has agreed to a breath test on the roadside and there is an indication from the roadside device that this person is over the limit, you would see what would happen on page 8. Section 70C(1)(b) states:

“...the constable may require that person to submit, in accordance with the directions of the constable, to a breath analysis and on any such requirement, warn him that a failure to so submit may render him liable to prosecution.”

Let us go through the scenario. The person has been stopped at the roadside and appears to be drunk. The constable says that he wants to test the person and he or she says no. The constable takes the person to the police station and tells the person that they want to do a more sophisticated breath analysis and the person says, no. He or she is guilty of an offence.

If the person is tested at the roadside; there is an indication that the person is over the limit and is taken to the station. The person collects his or her thoughts while going to the station and says that that one on the roadside is an imperfect test. I would take the one in the station because that is a more accurate test; it is giving a digital printout and I will have a hard time contesting the printout from the machine in the police station. If the person says that he or she is not doing it, again, the person would be deemed to be guilty of an offence. That is taken from other jurisdictions. This is done in Europe and the United States. Much of the work that went into this legislation was taken from other jurisdictions. *[Interruption]* I do not agree. The committee did much good work and every Member contributed to the final product before you.

With the breath analysis, to protect a person's rights and to ensure the integrity of the results section 70C(2) states:

“The breath analysis...shall be carried out by a constable authorized in that behalf by the Minister to whom responsibility for national security has been assigned.”

The reason for that is that when you look at what has occurred in other countries, people try every way to beat these tests. I am a diabetic; my metabolism is different from the ordinary person and it is affecting my blood sugar levels and therefore, the tests would be inaccurate. Another person would say, “I am ill; I have the flu. The results you will take from me would not yield a proper result. Another person will say I am on medication. The person has been stopped at the roadside and you do a preliminary test. The handheld device would determine whether the person is over the limit. When you take the person to the station; render the person immobile and the person refuses, hoping that when it goes to court he or she can beat the test by coming up with elaborate methods.

I saw in the United States there was a case where someone was questioning the accuracy of the device used in the police station to give detailed testing on the grounds that the computer code to programme the machine to convert the constituent elements in the person's breath into a reading was flawed. The person had challenged this in court and said that the computer code was flawed causing the programming of the machine to be defective causing false results to come out of the machine. The person demanded that the manufacturers of the machine produce the computer code. This turned into a huge argument because it was deemed to be a trade secret. A lawyer's paradise. The attorneys for the accused demanded the code and the attorneys for the manufacturers of the machine said no because it was a trade secret. There were months of arguments about trade secrets such as what is a trade secret; what information is classified; what should be made public and a person's right to a fair hearing.

Because the Members of the committee approached their task in a very professional manner, including Sen. Dr. Gopeesingh who was of great help to us; I must say that Miss Gillian Lucky was very helpful using her experience from the court in terms of dealing with possible challenges to the legislation, we are trying to strike a balance between a Bill that is not too draconian or harsh and one that would work so that persons would not be able to escape the law by coming with complex, legal and technical arguments to avoid convictions by challenging the accuracy of the test. The constable must be authorized by the Minister of National Security; go through a period of training and be certified by a trainer to be competent to administer the breath analysis.

In order to ensure that we strike a balance between human rights and workable legislation, the person has to provide two separate specimens for breath analysis and not one. You will have more than one set of data to compare, so you could more or less establish conclusively whether or not the person is over the limit. There will be instructions and directions for the taking of the samples because persons can also cheat. We had much education on how persons cheat. They do not blow properly; they give a small breath so that there is an insufficient quantity of breath to register on the machine. In the United States people do all sorts of things to avoid conviction for driving under the influence. There will be direction and instructions in terms of taking the test.

In addition, section 70C(3)(c) says:

“there must be an interval of not less than two minutes and not more than ten minutes between the provision of specimens;”

If you go beyond 10 minutes, the person’s blood alcohol content would change. This is what the doctors showed us. As the body metabolizes the alcohol, the person’s blood alcohol content would change. This is why we say not less than two minutes and not more than 10 minutes would give enough time to take some tests so that there would be no radical difference in the blood alcohol content reading. To protect the person, the reading from the specimen that indicates the lower concentration of alcohol in the person’s breath shall be taken as the result of the breath analysis. There, we went on the side of human rights.

Section 70C4 states:

“A constable shall not require any person to undergo a breath test or to submit to a breath analysis...

(c) at that person’s usual place of abode.”

(5) Notwithstanding subsection (4)(c), a person may be required to submit a breath test at that person’s usual place of abode—

(a) if the constable has reasonable cause to believe that—

(i) the person was involved in an accident...within the preceding two hours resulting in death or serious injury; and

(ii) at the time when the accident occurred the person had an alcohol level in his breath exceeding the prescribed limit; and

(b) if it was not feasible for a constable to require the person to submit to a breath test at the scene of the accident.”

A constable may witness an accident. Someone may crash into another car; cause serious injury or death to someone and take off. The policeman chases the person who goes home. In the United States of America, it is a standard trick for the person to run home and start to drink a beer. As the policeman arrives he would meet the person drinking alcohol. That person has deliberately sought to interfere with the testing to be done. If we put in this provision it would be to give the police flexibility that within a two-hour window of an accident occurring, they would be entitled to follow someone to their home and enter and cause the person to take a breath test.

Section 70C(6) states:

“Any person who—

- (b) wilfully does anything to alter the concentration of alcohol in his breath or blood between the time of the event referred to in section 70B...and the time when he undergoes that test or, if he is required to submit to a breath analysis, the time when he submits to that analysis,

is guilty of an offence...”

There are things that people can do to reduce their blood alcohol content. I cannot recall; maybe other Members as Sen. Prof. Deosaran and Sen. Dr. Gopeesingh may recall that we were told what people can do. If the police has caught someone or suspected that someone has done something willfully to alter the concentration of alcohol in their breath or blood while being tested or about to be tested, that person would be guilty of an offence and liable to a fine of \$6,000 or imprisonment for six months and \$10,000 on the second.

On page 12, we went back to human rights. Section 70C(7) states:

“It shall be a defence to a prosecution for an offence under subsection (5)(a) if the accused satisfies the court that he was unable on medical grounds at the time he was required to do so, to undergo a breath test or to submit to a breath analysis, as the case may be.”

There may be situations where a person cannot provide the specimen of breath that he or she was required to do. Let us take the most extreme situation. If a man is unconscious and a mischievous policeman says that he asked him to take the test and he refused; if the man is in a coma that would be a most extreme example. There would be other examples where for medical reasons, the person could not give a breath sample at the time. In that situation you want people's rights to be protected. It would be a defence to prosecution if they can prove that on medical grounds they could not give the sample when required to do so.

In terms of human rights we have set time limits. Within one hour after the person has submitted to the breath analysis, the detailed test at the police station, the constable operating the breath analysis instrument is required to give the accused a statement in writing, signed by the police officer specifying the concentration of alcohol; the time of day and date on which the breath analysis was completed. The machine we were shown gave a duplicate printout. One would be retained by the police officer; the other signed by the police officer and handed to the person. The person would have that in order to defend himself or herself.

The rest of the legislation deals with the question of evidence where the person is given the opportunity to prove that the concentration of alcohol in his or her breath at the time did not exceed the prescribed limit. The next section deals with the certificate that would be issued by the Minister of National Security to the constables certifying that this person is authorized to operate breath analyzing instruments and procedural matter in terms of time; of the type of apparatus; the time it was taken and so on. It is assumed that the printout that gives the level of alcohol with the date and time is prima facie evidence of the particulars in the certificate and it would be to the accused to prove that it was not so.

### **2.30 p.m.**

The rest of the legislation deals essentially with the various mechanisms we use to prescribe devices, on page 15:

“The Minister may, by Order, approve the device to be used for the quantitative measuring of the proportion of alcohol in a person’s breath.”

It also speaks to laboratory tests where, in addition to the breath test, the constable may require a person to provide a specimen of blood. This is to make doubly sure of the condition of the person. This protects the person's rights where if the person is in a hospital as a patient, the medical practitioner will have to give permission for the test to be taken.

Again, it says that for the purpose of this section, where any person is required to provide a specimen of blood, such specimen shall be taken only with the consent of that person at a hospital because we do not want blood tests taken in a yard or in the road; we want them taken under controlled, hygienic conditions, so it is with the consent of the person at a hospital by a medical practitioner or a qualified laboratory technician. We have given the Minister of Health the responsibility to designate the various labs that would give effect to this section which deals with the taking of a blood test. Again, if a person is under investigation and refuses to give a specimen of blood, he will be guilty of an offence.



The rest of the legislation, as I said, deals with ancillary proceedings dealing with evidence, in terms of who will certify the results, the question of an authorized analyst, a medical practitioner who will certify that they took the specimen of blood at a particular time and in a particular place and so on.

It deals with the rights of the person, for example, a certificate tendered on behalf of the prosecution shall not apply unless a copy has been served personally on the accused or on his counsel or by prepaid registered post.

Just wrapping up, Madam President, if we go on to page 18, the Minister of Health will also be given the responsibility to designate the persons who will do the test in addition to the laboratories. There are a series of definitions on page 19: what is an authorized analyst; what is breath analysis; what is a breath test; a constable, drug, hospital, et cetera.

Finally, on page 21, there is the typical clause that:

“The Minister may, subject to affirmative resolution of Parliament, make regulations for giving effect to the purposes and provisions of sections 70A to 70G.”

As I take my seat, once again I thank all members of the committee for the very professional and valuable work they did on the committee. This was truly bipartisan legislation that benefitted from the collective wisdom of all sides in this place and in the other place.

I beg to move.

*Question proposed.*

**Sen. Dr. Tim Gopeesingh:** Madam President, Senators, it was a distinct honour for me to have represented my party, the Opposition, on this important piece of legislation, the Breathalyser Bill. This is a piece of legislation that will undoubtedly help to reduce the killing fields on the roads.

The killing fields on the roads have only become second place to the killing fields in crime. When we have approximately 300 murders per year and 200 to 220 persons dying on the roads as a result of motor vehicle accidents, it is very unfortunate. Therefore, the work of this bipartisan committee in bringing about this piece of legislation for discussion and approval in the Senate today is quite noteworthy.

It must be mentioned that the United National Congress (UNC) has always looked at this Bill as an important tool, necessary in the fight against all types of criminal activities and carnage in general in Trinidad and Tobago. It was the

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Wednesday, July 04, 2007*

crime talks that resulted in the passing of the three police service Bills—the Police Service Bill, the Constitution (Amdt.) Bill, the Police Complaints Authority Bill—and the Bail Bill, it was important to note that the UNC indicated that the Breathalyser Bill should be part of the package that would move the community forward. It is important to note that the views were taken into consideration by this Government and the Opposition was happy to sit in this bipartisan joint select committee to represent its views, so that today, the Bill could be brought to the House.

Where the roads have become new killing fields next to crime, the introduction of this Bill today will not necessarily eradicate the road deaths that occur daily. Our party had some significant issues to deal with when we originally looked at the Bill in the Lower House. There were two significant things that needed the support of the Opposition so that there could be legislation supported by a constitutional majority. Those two issues were the invasion of privacy by the taking of blood from an individual, which is inherently, within the Constitution, a personal issue and which, therefore you cannot do without consent. The breath test, as well, where you have to get their consent is an important part of the constitutional requirement for privacy of citizens.

That was one of the aspects at which we looked. There was also the issue of the plain clothes policeman because this Bill has introduced the issue of the plain clothes policeman stopping at any time someone they suspect is under the influence of alcohol. We know the problems associated with plain clothes policemen nationally. Whereas a vast majority of the 6,000 police officers go beyond their call and do a tremendous service to Trinidad and Tobago, there are itinerant officers who do not really respect the law under which they are supposed to serve and who behave badly. So there can be plain clothes policemen doing dishonourable things.

When we looked at that issue, we thought that it was critical and had to be discussed. We have agreed to go ahead with the issue of plain clothes policemen being able to take blood samples, breath tests and breath analysis of people who have been suspected of having taken some alcohol.

In addressing the problem of drinking and driving, Government's efforts, through this legislation, must also include education, which we agreed must take place and that enforcements, very importantly, should be supported by all stakeholders in society, by efforts not only of Government, but also by efforts of the alcohol industry, community-based organizations and academic institutions that will help do the research necessary and provide empirical data and evidence on which to base future programmes and policies.

The experience of numerous countries have shown that collaboration amongst a variety of stakeholders result in a larger and more sustainable reduction of impaired driving incidents. If we look at an overview of drinking and driving—we know that it is a major contributor to increased morbidity and mortality—whereas 220 persons died on the roads, there are thousands more who are injured, and some of them are life-long, incapacitating injuries.

When someone is involved in an accident and is incapacitated, the entire family becomes involved. When that happens, families become distraught as a result. The pain, suffering, mental and psychological problems they undergo when they think of their loved ones being killed, none of us want our friends or our family to be involved and to have died as a result of an accident.

We know then that alcohol is involved in a substantial number of traffic accidents worldwide. Permit me to give to this Senate some international data, which I am sure that the hon. Minister would have read during the time that he worked very hard. I must indicate that the Minister and the members of this committee worked assiduously during the eight to 10 meetings at which we met.

In the United States, 500,000 persons are injured and 17,000 killed each year in alcohol-related traffic incidents. Almost 40 per cent of youth traffic fatalities are directly related to alcohol consumption, so youth and alcohol is a no-go.

In South Africa, 31 per cent of non-fatally injured drivers are intoxicated. In Colombia, 34 per cent of driver fatalities and 23 per cent of motorcycle fatalities are associated with alcohol. It is a good thing that in Jamaica, when we were young students, there was a tremendous professor of neurosurgery, who ensured that the Jamaican government enacted legislation so that all motorcycle users wore crash helmets. That piece of legislation came through in the Caribbean so that in Trinidad and Tobago now, we see all motorcycle users using crash helmets because that poor neurosurgeon had to work overtime every night doing neurosurgery for people who did not have crash helmets, far more those who used alcohol.

In Russia, in 29 per cent of all traffic accidents, drunk pedestrians were to be blamed. Vodka is in Russia, so. In the Caribbean, we do not have much data and this is why I emphasize that there must be collaborative work with institutions to bring out some empirical and statistical data for us to analyze. In the Caribbean, 68 per cent of all victims of traffic injuries had blood alcohol concentrations over 50 mg and 55 per cent had blood alcohol concentration of over 80 milligrams, which is a very high level. There is an almost inverse relationship found between

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Wednesday, July 04, 2007*

the number of road traffic accidents and the price of rum or alcohol, relative to per capita income. That was a study done by Prof. Michael Beaubrun in the 1970s. As the price of rum increased, to some extent, the accidents decreased, but we are not finding that today. As the price of alcohol increases, we find more and more traffic accidents.

Although alcohol impaired driving appears to be a single issue, it is in fact a complex problem. Solutions need to be equally complex and wide ranging and the breathalyser is one of the solutions. It demands a comprehensive, creative and flexible approach and the use of the breathalyser is just one of these solutions among myriads of solutions necessary to reduce road fatalities. So the primary debate about drinking and driving revolves around the most effective measure for prevention, where to set legal limits and how best to enforce them, as we are trying to do in this piece of legislation. That is the big question.

We are setting legal limits of blood alcohol concentration and a maximum allowable blood alcohol concentration level for operating commercial and recreational vehicles has been proven undoubtedly to be an effective prevention measure. The most common method of determining blood alcohol concentration is by measuring the alcohol in an exhaled sample of breath. That is worldwide. This figure is then converted into a representation of blood alcohol concentration.

Madam President, effective enforcement is very important and needed because we see that this is an indisciplined society. I doubt anybody would disagree when we say that this society needs to come up to the level of sober discipline so that we do not continue on this flagrant violation of laws on a daily basis for the simplest things.

Any Government, PNM or UNC, should begin to tell the population that it has been behaving in an indisciplined manner and needs to pull its socks up and ask them to behave in a responsible manner. It is important that the basic fundamental laws must be observed on a daily basis. We see people driving down the highways throwing things out of cars. You blow your horn and indicate to them that they are littering the streets, they want to swear at you. You see them driving on the right-hand side of the road in a slow manner; not allowing you to pass, even when you are within the normal limit, they will swear at you. You see them at their homes cluttering the area with all types of rubbish that they put into areas from which they know it will not be collected and from which it will flow into the rivers and drains and clog them. When will we put some discipline into our minds, citizens of Trinidad and Tobago?

It is important that the Government continues to educate the population and bring about certain fundamental thought processes to rekindle the population to understand the necessity to abide by simple laws. No matter what we do about this breathalyser, this will be a miniscule part of it.

There are people crossing the roads everywhere—this is what keeps the traffic back. There are people 10 metres here, 50 metres there; they cross the roads and tell you: “Bounce me nah”, as though they are heavier than iron. The only place I see some discipline is near the bus terminal where people will cross because someone has a stop sign. There is discipline there but not in every other part of Trinidad and Tobago. Members of Parliament who have Priority Bus Route passes will see that even on the bus route, there are people who are not obeying. They know that there is a red traffic light, but they are still crossing.

How do we enforce these pieces of legislation? How do we get people to understand that if they break the law, they will be penalized? It is sad though that, as far as enforcement is concerned, it leaves a big gap for us. When we look at the third report of the joint select committee of Parliament, from the Police Service Commission report, you see a lot written where the Commissioner of Police indicated that the sanctioned strength of the police service is approximately 7,000 and that it is still in need of approximately 600 officers to meet the required capacity to provide effective policing. It is questionable whether, hon. Minister and Senators, when we enact this legislation, we would have enough police officers on the roads to do the breath testing; and whether there would be enough police officers in the police stations to do the breath analysis.

We know it is going to be a magnanimous task. Education has to start early: education of police officers—the Minister knows that because we discussed that at the meetings and he has agreed that it would take three to six months to educate the police force on these issues. The entire police force has to be educated on this—how to take a breath test and what apparatus is to be used.

The other issue is how many vehicles will be employed in doing this. At the moment, we do not have enough vehicles on the roads. Where will you have vehicles parked with officers to stop people whom they suspect have consumed alcohol above the alcohol limit and to do the breath testing at the side of the road? You need more police officers; you need more police vehicles and you need police stations which are adequately equipped. I am sorry that the hon. Minister of National Security is not here because we have seen the dilapidation of police stations that is way out of control. So many have had to be closed and we do not think that there has been any strong endeavour on the part of this administration to

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Wednesday, July 04, 2007*

provide the quality police stations since they have come into office, so that the population will feel comfortable that the Government has made an impact in providing good police stations so that the police officers could work with some degree of comfort.

There are a number of things required: education, more police vehicles, more police officers, training in the respective responsibilities of taking the breath testing and the breath analysis at the police stations. In addition to that, Senators, there is the question of the taking of blood. The Minister of Health, by regulation, will be the person responsible for delegating or delineating at which laboratories people will get blood tests done.

There is a whole paper, *Road Traffic, Breath Analysis and Blood Test Regulations, 1994*—I think you would have read it—from South Australia. I will pass this to you for the formulation of your regulations, if you do not have it. The whole question of taking of blood is confidential. If you use that sample of blood for other purposes, let us say, there is an itinerant police officer who wants to find out something about a particular individual and he stops that person, makes sure that they have their blood taken and that blood sample is used for other things, for example, HIV/AIDS testing, which is not supposed to be done, except for blood sugar levels, that will be wrong.

So there are procedures for voluntary blood testing and there are about 15 pieces of regulations as far as this is concerned in South Australia, which is one of countries that started this whole thing. I can pass this paper on to the hon. Minister so that when they look at the regulations, this will be part of it.

It is important for the Police Service Commission to understand that, with the passage of this Bill, they need to get their act together because we do not want to have situations, as happens on a daily basis, where police officers are unable to go to court. We have read in the newspapers and from this report that almost 1,000 cases were dismissed because police officers were not there to give testimony.

I just wanted to read one part of the Police Service Commission's report, which revolves around the whole question of highway patrol. They said that:

“As further criteria for assessing police performance, the Committee enquired about the use of resources to combat the increased carnage on the nation's roads and the perceived ineffectiveness of the highway patrol in preventing and detecting defective vehicles.

Questions were raised as to the use of computerized networks and the availability of technological equipment to deal with drivers. The Commissioner

indicated that increased funding would go a long way to enhancing the technological capabilities of the service.

The committee was cognizant of the fact that the Breathalyser Bill will soon be enacted in Parliament as one step towards increased road safety.”

We are going to be discussing and passing this Bill today and obviously it will be proclaimed very shortly, but the police service will not be ready to implement much of this. It will take a long time, based on the issues I raised on vehicles and manpower.

It is important for the population to know—in medical language we call it pharmacokinetics—the absorption mechanism related to alcohol. Generally, in the fasting state, about 20 to 25 per cent of a dose of alcohol is absorbed from the stomach and 75 to 80 per cent from the small intestine. In the fasting state, blood concentration peaks within 0.5 to 2.0 hours, that is half an hour to two hours, an average of three-quarter of an hour to one and one-third hours, compared with the non-fasting state of one hour. Absorption continues from 45 minutes to two hours after drinking or even longer. So if we feel that we have taken a last drink and that will not increase our blood levels, by the time you are out on the road, in the next two hours, your blood level keeps climbing. It is important in terms of the education of the population. Peak absorption normally occurs within 15 minutes to one hour.

Food delays absorption by, on average, two hours. If people are going to drink and they want to have one drink per hour and they have three drinks in three hours, a safety mechanism to ensure that their blood level does not come up to the concentration that is allowable by law, .08, is to ensure that there is food in their stomachs and fatty food have the longest delay on alcohol absorption. We are not telling the population to eat fatty foods.

As a rule of thumb, a person will demonstrate peak alcohol levels approximately 35 to 45 minutes after a standard drink and your body can get rid of one standard drink in one hour. Any time you drink more than one drink in one hour, you begin to go beyond your level. Ethanol, which is alcohol, is diluted by the body fluids so that a smaller person—and the hon. Minister was talking about the petite, young female, like my distinguished and honourable colleague, Christine Kangaloo—very beautiful and petite, with less body water, has proportionally higher concentrations. So smaller individuals with less body fluid, less body fat will have a higher alcohol concentration quicker than the adult.

**3.00 p.m.**

What is a standard drink? A standard drink is equivalent to a beer with 12 ounces; a beer with a 5 per cent alcohol or 1.5 ounce of 80 proof alcohol or six ounces of a glass of wine. That is a standard drink. So, if you have two glasses or three glasses of wine in one hour then you are in real trouble.

It is important for the female population to note that women absorb and metabolize alcohol differently from men. They reach higher blood alcohol concentrations after consuming the same amount of alcohol as men. So, with one drink for a lady and one drink for a gentleman, the blood concentration in the female is higher. Women have lower activity of the alcohol metabolizing enzyme and, therefore, cause a larger proportion of ingested alcohol to reach the blood. They have less of the enzyme that metabolizes the alcohol.

**Madam President:** Ladies do not get too excited. [*Laughter*]

**Sen. Dr. T. Gopeesingh:** The other issue for the older persons in the Senate and in the audience is that the body's ability to metabolize alcohol quickly tends to diminish with age, and total body water diminishes with age. As we grow more senior, our ability to metabolize the alcohol takes a longer time and, therefore, the blood alcohol concentration remains longer.

Minister Imbert, I think you should compliment the members of the legal drafting team who worked assiduously with this committee. I see a member here this afternoon and I think it is worthwhile to compliment him for the tremendous work that he did over the period of time.

**Hon. Imbert:** I will do that.

**Sen. Dr. T. Gopeesingh:** With respect to the effects of alcohol, we all know that different levels cause different problems. The blood alcohol concentration of .01 to .05—the stage we have reached—is a subclinical stage. The behaviour is nearly normal by ordinary observations. When we go from .03 to 0.12—.08 is within that range—we get euphoric. What is euphoria? You have mild euphoria sociability, talkativeness, increased self-confidence, decreased inhibitions, diminution of attention, judgment and control; the beginning of sensory motor impairment and loss of efficiency in finer performance.

When we go just above the limit of 0.09 to 0.25 you get excitement, emotional instability, loss of critical judgment; impaired perception; decreased sensory responses and reduced visual activity. So, a level just above the limit of 0.08 which we are passing today causes all these problems. Could you imagine a



person having a level a little above 0.08? What problems are they going to have? Confusion and stupor.

The levels of 0.35 to 0.50 can cause coma and 0.45 and onwards can cause death. It is not unusual to hear people going home after drinking and dying in their sleep. This is because the alcohol levels were very high. When they would have left the pub or the shop and they continue to absorb up to two hours later when their blood levels would have been lower and they were not as drunk, when they reach home and after they go to sleep their levels will be so high so as to cause death.

Madam President, I thought it was necessary to give a little overview, since I am a medical doctor and I have sat on that committee. My party asked me to be on that committee to assist with the technical issues, so I thought it is important for us to understand some of the technical issues related to alcohol absorption and what it causes.

Let us now focus a bit on some of the other areas which we have to mention, discuss and look for solutions, in addition to what the breathalyser will do for the population. I spoke about the necessity for the vehicles on the highways and for the apparatus. I hope that the Government will undertake the responsibility of getting the necessary apparatus required in an efficient and transparent manner with proper tendering that is fast tracked so that we will have the hundreds of breathalysers that are needed for the breath testing on the roadways and the ones that are needed in the police stations. That is a necessity that is required as early as possible.

I would like to see the Bureau of Standards do some more work than what they are doing at the moment. There are many laboratories, and if the blood testing has to be done by laboratories throughout Trinidad and Tobago which do not give accurate reliable information, the Bureau of Standards must visit these laboratories and ensure that there are proper certifications, so that when somebody's blood alcohol level is tested, you would know that is the correct blood alcohol. This should not be from any laboratory that is just opening around the corner, because they can afford to buy an apparatus to do basic blood testing which is not supervised by professionals.

With respect to the situation where we have to go to court on the question of blood alcohol levels of 80 milligrams of alcohol in 100 millilitres of blood, the laboratories must be properly certified by the Bureau of Standards so as to ensure that the court processes are properly done, and the levels that are presented to the court are verifiable levels.

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Wednesday, July 04, 2007*

I have spoken about the education of the population that the Government has to spend a lot of time doing. I am fearful that with this Government's inability to implement things as fast as they should, since this has been one of their bugbears and tremendous weaknesses—the inability to implement things whatsoever. It is sad for me to say that this Government has fallen woefully short in terms of implementation. *[Interruption]* Well, we do not need to speak about the mismanagement and so many other things because we have spoken before on these things. Implementation is where this whole matter is going to fall down. If you do not implement the things that are needed as far as this legislation is concerned, you will find that this Bill will not make any difference to the road carnage.

Madam President, I spoke a little about the discipline that is needed. We see persons crossings on highways and a number of these persons die as a result of that. On the route to the Western Main Road in St. James, some fencing was put up to prevent people from crossing. The people broke the fencing down and subsequent to that persons died as a result of crossing the road.

There are overhead crossings on the highways, and the citizens do not use the overhead crossing. It is time the administration of law brings discipline back into the society to ensure that the people who disobey these basic fundamental laws should be punished. We cannot continue to live in a society which is indisciplined. We have jaywalking, crossing the highways, driving badly, driving on shoulders and driving on the right-hand side of the road if you are not overtaking. All these matters need to be dealt with immediately.

I have to add that it seems as though whenever this administration is in Government, people begin to believe that it is their time now to break the law. Why did the PNM give this impression that as soon as they came into office people can do anything that they want and then they begin to break the law with impunity? I have to say that because it is reflected in crime and in many other areas. *[Desk thumping]*

**Sen. Joseph:** You were a Member of the committee.

**Sen. Dr. T. Gopeesingh:** I was a Member of the committee for the legislation, but we have to talk about the other issues. You are the Government and you have to implement. We did our part as the Opposition. We gave you technical advice and also the Police Reform Bills, but has it made a difference?

With respect to the engineering on the roads, the Minister of Works and Transport has to take cognizance of this matter. The road at Gasparillo Junction: Why are there so many persons dying at that corner? The engineers have

determined that the banking on that piece of road is not adequate, in terms of the cornering at a particular speed. So, when you are cornering beyond a speed, the degree of tilt on the road is not sufficient to keep the car on a steady course. The engineering on the roads plays an important part, and it is the responsibility of the hon. Minister to ensure that the roads are taken care of.

There are also edges on the road. If one is driving down the highway and the edge of the road is a little higher, one can go off the edge of the road and that would land that person on the other side very easily. That is another important aspect.

Now, it is important for me to say this as well. Throughout the Caribbean and Trinidad and Tobago, there are electricity poles staring at us five feet away from the edge of the road. If somebody gives you a little bad drive, you would end up on an electricity pole and that is death. Why can we not look in a constructive way at moving these electricity poles farther away from the margins of the road or have them at larger distances apart with higher poles and stronger cables rather than having them every 100 metres or so? If a pole is facing you, then you can crash into it.

Do you remember in Mayaro people used to lose their lives by just going up onto a coconut tree at the side of the road? Presently, there are steel poles going up and they are very thick. They are bringing these steel poles closer to the edge of the highway. Besides the breathalyser which would obviously reduce to some extent the carnage and people losing their lives, you would have to look at other issues as well.

I see there is evidence now where they are putting up concrete medians, but these should have been on the highways a long time ago. Do you remember the judge Bharrat, his wife and two other persons were travelling in a westward direction on the highway and a car flipped from the other side and landed on them and the four of them died? This happens day in and day out. The only area where I have seen some improvements is on the Diego Martin Highway. There are crash barriers in the middle. All the highways are supposed to have medians. I see that has reached a certain part on the Western Main Road in St. James, but this is something that they should have done a long time ago. The Government is slow as far as this is concerned. Too many lives have been lost.

When you are driving down on one side of the road, you have to be looking for anybody flipping from the other side coming across to you. So, you have to drive for the person obliquely opposite you on the highway; for the person on the left; the person on the right; the person in front; and the person behind. It is a very difficult thing to be driving on these highways.

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Wednesday, July 04, 2007*

With respect to the need for cameras, I think it is important if we are to become a developed society. We have to move in line with what developed countries are doing. Do you know how stupid it looks that in today's age of technology, there are policemen on the highway timing people? There is one officer hiding behind an electricity pole and the other officer hiding behind another electricity pole in the middle of the day in the hot sun, and then there are about five officers flagging you down, and then one officer would go across in the middle of the highway to stop you thus endangering his life. That has to be dealt with.

Madam President, do you know what the drivers know? They know where these timing spots are and, therefore, they do not drive fast in those areas, and as soon as they have passed those areas they would drive fast again. So, they know that it is around the savannah opposite the President's House; they know it is by the Solo factory on the highway and where it is in Chaguanas.

Madam President, a *Sunday Guardian* poll on June 24, 2007 asked about cameras, traffic officers for the nation's roads. It says: "How safe do you feel driving/travelling on the roads in this country?" Madam President, 67 per cent said that they are unsafe and 33 per cent said that they are safe. Now the question was asked: "Would you support the setting up of cameras on intersections to monitor the roadways? Madam President, 95 per cent said yes that they want cameras on the highway.

So, hon. Minister and Members of the Government, it is incumbent that you act quickly and expeditiously in ensuring that you move away from this old foolish system of timing by police officers, and move to a more sophisticated system which is easily available. First you must bring in the cameras and the radars and so forth. Developed countries have these overhead cameras on their highways. If you are going beyond a speed and you pass them, your car would be photographed. They would then send a ticket for you in the mail a day or two later. Now, that brings me to the other question.

Madam President, if you were to photograph a car with a particular number plate, do you really believe that is the person driving that car? The number plate system in Trinidad and Tobago is atrocious at the moment. That encourages criminal activity and criminal element. Anyone who has a place doing number plating can create a number plate and give it to a friend, and within two seconds they could change the number plate on a vehicle, and when the police officers are looking for a particular car with a particular number plate, they would see another number plate and that is not the person. We want to know what the

Government is going to do with this particular issue. It should be regulated, and we should not have a plethora of people doing number plating throughout Trinidad and Tobago. [*Crosstalk*] It needs to be done. What is right for the country must be correct. We will support anything that is correct. We are supporting this Bill. This Bill is important and, therefore, we are going to support it. The Minister of National Security knows that this issue with respect to number plates is a very real and vexing problem, and which facilitates the increase in crime. This is something that Mastrofski and his \$85 million plan should be looking into as well as the human resource element and training.

Where have the patrols and motorbikes gone? We are not seeing that at all. If there are cars on the road to look at people speeding—when the roads are bottlenecked and there are two lanes of traffic and something is happening further down the road about a mile away, the police cars cannot pass anywhere, but the police on motorbikes would be able to pass, but we are seeing a reduction in police motorbikes. Probably every three, four or five miles on the highway must have police vehicles and motorbikes with police officers monitoring the areas.

The other question has to do with the Ministry of Agriculture, Land and Marine Resources and it has to do with stray dogs and stray animals on the roads. There was a young university student who was going to write an exam on a particular day. She swerved to get away from a stray dog and went under the edge—

**Madam President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. W. Mark*]

*Question put and agreed to.*

**Sen. Dr. T. Gopeesingh:** Madam President, did you notice that I did not go very much in-depth into the Bill? I was part of the committee. I made my comments when we were discussing the Bill.

**Hon. Imbert:** I am enjoying your contribution.

**Sen. Dr. T. Gopeesingh:** You are enjoying the contribution, but it is important that you see all these things together. Madam President, I am sure that you are enjoying it as well.

**Madam President:** Yes.

**Sen. Dr. T. Gopeesingh:** I feel very happy that you are enjoying my contribution this afternoon. Is it because I am not attacking the Government as much? *[Laughter]* So, the question of stray animals has to be looked at.

I remember there was a very prominent nurse, nurse Cambridge, in the surgical ward at the San Fernando General Hospital, when I was a young doctor. We left her around 7 o'clock on the ward and the next morning we heard that Sister Cambridge and her husband died. They were going up the highway, and a cow came across the highway, and they hit the cow and she died. Now, all these things really impact upon your memory and psyche in a negative way. One has to look at all these issues. So, the young student who was attending university lost her life as a result of a stray dog.

With respect to inspection of vehicles and the licensing of vehicles, the UNC realized that licensing of vehicles and inspection of vehicles were going to be crowded at the two licensing offices and we ensured that there were a number of licensing centres throughout Trinidad and Tobago. We are having a lot of difficulties ensuring defective vehicles are kept off the road. The licensing authority is not working as effectively as it should by ensuring these licensing areas are functioning properly so that people will benefit in terms of these derelict vehicles being removed from the road.

What is the Government doing about the 50,000-plus vehicles that are on the roads at the moment? We ensured that people could have afforded a vehicle. The cost was exorbitant and we allowed a certain number of second-hand vehicles to come into the country. I think this Government has to work together with us in finding a solution to this amount of overcrowding on the roads.

I want to come now to the issue of buying of licences, and this is important for this administration to look at. Presently, there are persons who are behind the wheels with a driver's licence that they did not earn it, but paid a bribe to get it. Some of them never took the driver's test by the Transport Division. They would have paid \$3,000 to \$5,000 and supplied the signature and a photo to corrupt officials to join the race. There are other drivers who cannot read and write and they got someone to write the examination for them.

Some people—not functionally literate—it is not a nice thing for me to say that, but the truth is the truth—cannot read and write so how did they get their driver's licence? Others are supplied with the multiple choice questions before. The corruption in that area is so entrenched that when the young ones go to a driving instructor they are told straight up that in order to get a licence you must pay a bribe. The system is rotten. That cannot continue.

Madam President, for the persons whose licences were suspended or who were banned from driving or are illegal aliens or do not want to be known, there is a corrupt deal for them as well. So, I feel sorry for you. As the head of the Ministry of Works and Transport, you have a lot of work to do. You have to get to the bottom of all these problems, because that licensing authority is in a mess, as far as corruption is concerned in getting a licence. That matter has to be looked at immediately.

I believe that young persons 17 years and over with driver's licences must be looked at carefully. I saw some commentaries recently in the newspapers where persons were advising that these young persons should go through a defensive driving programme, because many lives are lost. We have many close friends who have lost their children, because they were inexperienced in driving. We believe that they should do a defensive driving test programme before going on the roads, in addition to the test by the licensing authority. That would impact significantly on the loss of lives of the young population.

What about penalties for persons who drive recklessly and incapacitate other persons who have had to suffer as a result of reckless driving? As a young doctor, I remember working in the casualty department for six months, and I saw over 50 persons came in dead on arrival. Madam President, you would have worked there as well. At the side of them, there were persons who were involved in the accident and alive and talking to you, and they are the ones who have caused the accidents. They were drunk in the first place, and at the side of them the passengers are the persons who died. Do you know how painful it is in a country when you see innocent ones dying and the guilty ones alive? Something has to be done as far as this is concerned. Penalties have to be higher. Insurance companies have to work closer with legal authorities to impose more severe penalties for people on manslaughter charges who have been found guilty of manslaughter. Besides that, there must be some financial penalty. These persons who are incapacitated as a result of these accidents, suffer prolonged years of agony and they have to spend lots of money to keep themselves going on a daily basis.

The last matter is the question of cellphones. I am glad the hon. Minister touched on this matter. There was a paper done by Robert Britt in February 2005 entitled "Drivers on cellphones kill thousands". I heard you mention that. They talked about how the reaction time of cellphone users slowed dramatically, thus increasing the risk of accidents and tying up traffic in general. When young adults use cellphones whilst driving, they are as bad as sleepy septuagenarians—sleepy 70-year-old persons. So a young person using a cellphone is as bad as a 70-year-

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Wednesday, July 04, 2007*

old man driving. That is the effect of the use of cellphones on the road. If you put a 20-year-old driver behind a wheel with a cellphone his reaction times is the same as a 70 year-old driver who is not using a cellphone. This was said by the University of Utah Psychology Professor David Strayer. It is like instantly ageing a large number of drivers and cellphone distraction causes 2,600 deaths and 330,000 injuries in the United States of America every year. According to the journal's publisher, Strayer and his colleagues have been down this road before. In 2001 they found that even hand-free cellphone use distracted drivers.

Previously, the scientist also found that chatty motorists are less adept than drunken drivers with blood alcohol levels exceeding 0.08. That is our alcohol level for the law. They found that persons chatting on the cellphone are less adept to driving.

With younger adults everything got worse. Both young adults and older adults tended to show deficit in performance; that is with the use of cellphones. They made more errors in detecting changes, and they took longer to react to these changes. Elderly drivers were slower to react when talking on the phone as well.

Madam President, are cellphones really so dangerous? They are really dangerous. The United States of America did some research on cellphones. This came from a 2002 study by the Centre for Risk Analysis which estimated that the use of cellphones by drivers caused approximately 2,600 deaths.

*The Times* also noted in a 1997 study of Canadian drivers who agreed to have their cellphone use scrutinized found that the risk of an accident was four times greater whilst the driver was using the cellphone.

I believe that the time has come for this country and the entire Caribbean—you gave a number of examples where countries have banned the use of cellphones. My party has not given me authority to speak on the matter in terms of what our party's position is, but I am raising the issue because it is something that as a country—you are in Government and we are the Opposition, and when we take over from you in November 2007 we will be in government—we will have to make a decision. A ban on the use of cellphone is overdue. The whole question of the use of cellphone whilst driving has to be looked at critically.

I talked about the enforcement of the law, but there are many accidents occurring where people are flipping out of their cars. If they had their seatbelts on, they would not have gone out of the cars. So, this matter needs to be looked at, and for enforcement to be taken in those areas.



Madam President and Members of the Senate, it has really been an honour for me to represent my party on this bipartisan joint select committee, and to have made my contribution amongst my colleagues, and to have added to some of the other issues that we need to look at critically in reducing the carnage on the roads.

Thank you very much. [*Desk thumping*]

**Sen. Dr. Eastlyn Mc Kenzie:** Madam President, thank you very much. Let me begin by congratulating Members of the committee and the legal draft persons for the work that they did in bringing this Bill to this stage today. I also want to say thanks to the hon. Minister and Sen. Dr. Tim Gopeesingh for the education they brought by their contributions.

I have learnt that there is a difference when big, fat, tall men drink the same quantity of alcohol, they would get different results from small, slim and short men. I have also learnt that there is a difference between female drinkers of the same size, quantity as against male drinkers. Thanks again for the education.

I want to urge the Government and all of us to do some public education on this whole matter of drinking and driving, and the impact of alcohol on driving. I think we should look at it from the standpoint where what we say—the education we give and the message we spread—could act as a deterrent to those persons who tend to drink and drive.

In addition, I think we would also be dispelling some of the myths. We have a number of folklore things. I think the hon. Vice-President has one in his Christmas songs, which talks about “one drink and go”. People are of the feeling that if you take one drink, then it could not be right—you cannot go on one foot—and then you have to take another drink to balance yourself. [*Interruption*] “One for the road”. Probably, the education will dispel that myth.

Another thing that we should dispel—it is probably true from what I am hearing from the medical research—is that if you drink on an empty stomach, it affects you more than if you eat and then drink. There is also the feeling that if you drink plenty and you want to cut down the hangover and so on, you should eat something that is salt. That is why probably at Christmas time people go with ham and liquor. So, we need to continue that education. I read in the newspapers often “Do not drink and drive”. I think we need to do that.

Madam President, our objective should not be to catch the people who drink and drive. That should not be the main aim of the legislation, to catch the person who is above the limit of alcohol. I think our aim should be to try to prevent

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. MC KENZIE]

*Wednesday, July 04, 2007*

people from consuming so much alcohol that it is above the limit. So, our aim is not to catch people.

Madam President, I was very touched by Sen. Dr. T. Gopeesingh's contribution when he talked about persons who are left behind in an accident—those who have died do not even know that they are dead, but the persons who are left behind like the relatives, friends and so forth—if we really sensitize people to that type of influence and the impact on those who are left behind with the injuries, the loss and memories, et cetera, you would see that these deaths could have been prevented. This is what makes it really hard to bear. That is another point that I wanted to make.

I want to do some housekeeping announcements. The first thing is that I would ask the hon. Minister to ensure that the regulations are ready quickly. We have had too many Bills being passed and they could not be implemented, because the regulations were not there. We had that for years with the Criminal Injuries Compensation Bill. I want to urge the hon. Minister to ensure that he gets the regulations ready as quickly as possible.

My next housekeeping point is to ensure all police stations, especially rural stations, have the equipment—back-up equipment and spare parts and so forth. Very often, you may do your breath test, and when you go to the station to do the analysis, somebody would tell you that the person who did the analysis is not there or the machine just broke down. I think we should try to avoid such complaints.

Another housekeeping point is that all police officers should be trained with respect to how the test should be taken and how to use the instruments. Too often, we could drive, but we do not know how the car works. I think we need to train police officers, and this should be part of the training curriculum. Those who are already there should also be trained.

I want to suggest to the hon. Minister that in the interim—whilst he is getting the regulations and the instruments and so forth—that some of our police officers should be sent on attachment to other law enforcement jurisdictions that are already using the breathalyser test—whether it is in the region or not. They should go to these places where they are ordering these instruments to be trained on how to use them, repair them and fix them, since you will be buying these equipment from them.

Madam President, I want to suggest that the procedure be looked at very closely. I am saying from reading on dope testing for athletes and so forth, sometimes these athletes would claim: "I am not sure the sample is mine." I think we have to

be very careful about our procedure. The person whom you will be taking the sample from should be present to see the analysis, so they would not get the impression that you have taken the sample and that you went in a room to do something with it, and that you were analyzing another sample. We have to be careful that our procedure is as such—

**Hon. Imbert:** I want to thank the hon. Senator for giving way. The breath test has to be taken in the presence of the person, and the analysis has to be done in the presence of that person.

**Sen. Dr. E. Mc Kenzie:** Thank you very much, and that answers the next point that I wanted to make about people claiming that there is a mix up and so forth.

Finally, because of the fact that there is going to be a different penalty for consecutive second and third offences, our records should be well kept. You must have proper records that you can get at the touch of a button so that you would know that this person was brought here in January and then again in June—two consecutive times within six months. You should be able to pull up that information rather than say: “We have to do a trace on you and the trace is taking two months.”

Madam President, thank you very much for the opportunity. I want to congratulate the Government on the Bill and all those persons who worked on the committee. I am sure that our representative, Sen. Prof. Ramesh Deosaran, would have put in his few pennies worth and I am sure that it would have aided in making the Bill as comprehensive as it is, and I will support it. [*Desk thumping*]

**Sen. Ronald Phillip:** Madam President, thank you for the opportunity, once again, to contribute to a Bill that we in the Opposition think is needed. We had supported the discussions and the contribution to the joint select committee. I have some reservations about the implementation of this Bill, and the effect that the Bill would have.

I recognize that the purpose of the Bill is really:

“to empower constables to demand specimens of breath and in certain instances, samples of blood from persons thought to be driving under the influence of alcohol.”

It is really dealing with just the alcohol’s contribution to the road carnage and fatality. When I listened to the presentation of the hon. Minister, he alluded to the fact that the carnage is caused by alcohol consumption. My colleague, Sen. Dr.

*Motor Vehicles (Amdt.) Bill*  
[SEN. PHILLIP]

*Wednesday, July 04, 2007*

Tim Gopeesingh, went ahead and gave us examples from different countries where the contribution is roughly about 30 per cent. If I take an example from page 22 of the report, this was actually tabled in the discussion:

“The Disease Centre Control analysed data from 2004 to 2005 from the office of the Chief Medical Examiner from West Virginia and found that in those individuals who were killed in vehicle crashes, 27.7 per cent of them had blood alcohol concentration which were over 80 mg per cent.”

The point is that roughly 30 per cent of these accidents are caused by drunk drivers. We should ask ourselves: What are the other contributing factors that we need to address as a people to ensure that our citizens are saved and that young persons in our society could understand that this vehicle could be a weapon and it could cause loss of limb and life to other individuals and also to themselves?

I was looking for that other answer; that other two-thirds. While my colleague Sen. Dr. T. Gopeesingh had gone through this and other areas such as the cellphone use which the Minister pointed out would have been important. In an article dated Wednesday, June 27, 2007 in the *Guardian* the hon. Prime Minister was also contributing to what he thought led to the carnage on the road. He was at a ribbon cutting ceremony to declare the Pleasantville Senior Activity Centre in San Fernando open. The headline reads: “PM: ‘Style’ the cause of road carnage”. I am going to quote the article which was written by Yvonne Webb from the *Guardian* South Bureau and it says:

“Driving for style rather than functionality is contributing to the road carnage  
Prime Minister Patrick Manning has said.

The Prime Minister yesterday voiced his opinion on the cause of the road carnage that has claimed over 120 lives for the year so far.”

I do not understand the style. Probably, he is referring to the cellphone style or how people sit in their cars, but the article was not very clear. I am at a loss. Probably, we need to address some research that will allow us to determine how really this large number of persons have lost their lives on the road.

“Manning said the way people sit behind their steering wheels—for style rather than functionality—was a contributing factor to the road fatalities...”

Manning said he strongly suspected that was what had been happening in a lot of the vehicular accidents now engaging the attention of the National Security Minister and the police service.”

So, people are losing control of their vehicles because they sit behind their steering wheel with style. I am at a loss in terms of how a Prime Minister could make statements like that.

When we look at this Breathalyser Bill, I am aware that our society has more of a cultural orientation and a close orientation to the use of alcohol as a socializing kind of instrument. This is so probably because of our unique history. Long ago, sailors used to receive their wages in rum, and our sugarcane production was really geared towards the production of molasses for the production of rum. And so alcohol drinking has been close to the workers in the sugar field; be it Africans during slavery or indentured labourers.

In fact, I want to highlight that the problem with implementing this Bill will be because of that socialization and that rural kind of use of alcohol to bring boys to men. What we have is the situation that Sen. Dr. Mc. Kenzie talked about in terms of taking “one for the road”. We use alcohol in social situations and we indoctrinate our young people to see how they could handle the liquor or the rum; and we force their hands in terms of putting them in situations where they have to show how much alcohol they could consume.

Madam President, what we have is people in our society who have become so accustomed going through the day with a drink. There is the social part where we have to deal with alcoholism first—people in different strata of the society—who must take a drink to get through the day. We have just the Alcoholics Anonymous Association that would allow them to go and get some kind of treatment.

Madam President, as soon as we put this Bill in place, we would have a situation where many persons—probably persons who have to make a living from driving on the road and so forth, would be captured in this situation and without the proper social services and introduction in terms of mechanisms, where we could allow them to treat with alcoholism.

The cost of implementation for this Breathalyser Bill. When we look at the training for police officers and the machines and so forth, there is a cost. I wonder if the Minister considered that, in terms of being able to implement some of the strategies that we would want implemented, if this Bill is to be enforced.

Madam President, the real difficulty that I am having with the implementation of the Bill is the difficulty in getting reliable evidence. When we think about the Act being proclaimed by the President, there are just too many areas where we have not considered the implications for and how is this going to affect different areas of people’s lives and the enabling factors.

*Motor Vehicles (Amdt.) Bill*  
[SEN. PHILLIP]

*Wednesday, July 04, 2007*

I just want to go now to some of the issues which I think the Minister should take into consideration when he deals with the issue of the regulations. What we are going to have is these cases being brought before the court, and looking at the Bill now, the courts would need to get some instruments to guide them to interpret the Act in such a way that the evidence could be viable, reliable and valid in terms of that.

Madam President, when we look at the effects of alcohol on the body, we find that the real reason for alcohol affecting drivers is that it is a depressant. It depresses the central nervous system and makes people slower and also impairs their judgment. What we find is that there may be some situations where—recognizing the detrimental effect of alcohol on persons and their lifestyles, and also on their driving—some persons for some reason are actually encouraged to use alcohol probably for medical reasons—persons who are anorexic and need to get a tonic. Most tonic has a sherry base and that is 40 per cent alcohol. We accept the fact that food will affect the blood alcohol consumption, and that is a valid concern that we have.

We know that because of lifestyle diseases—people are diabetic and suffering from kidney stones and so forth—there are actually doctors and people, that I know, that went to doctors with a kidney stone problem and the doctor recommended that they should drink beer, and not have one, but have a few. *[Interruption]* Madam President, you being a doctor, you would know that the alcohol in the body affects the ADH. I am saying that persons who suffer from kidney stones were encouraged to drink beers.

So, we know that from what was said by the Minister that the level that we are looking at which, is, one beer per hour, is the level that would take you to the level where you could actually be charged. The point is that when we look at this ADH that is supposed to absorb the water in the kidney, we find that alcohol prevents the hormone from working, and because of that people lose their body water rapidly, and you would end up having a case of dizziness and disorientation. Those are the side effects of the alcohol.

There is a saying in the Bible that alcohol should not be given to princes and kings, but we know that alcohol actually makes the heart grow fonder a bit, and it is recommended that people should consume alcohol.

When I was doing my research, I actually found some information that I would just like to share with the House and it says that although alcohol is typically thought of purely as a depressant, at low concentrations, it can actually

stimulate certain areas of the brain. This stimulation is in the area of the cortex, hippocampus and nucleus accumbens are responsible for thinking and pleasure seeking.

Another one of alcohol's agreeable effects in the body is to promote relaxation, and it causes heightened alpha brain waves surging across the brain. So, it definitely allows for a certain amount of relaxation, reduction of inhibitions. From the research, it actually promotes learning and planning. *[Interruption]* I am going to pass the research to the hon. Minister. This is not my research, even though I conduct research. This is a research that I have found on the Internet. *[Interruption]*

When one looks at the effect of alcohol and the spirit in which this Bill is being purported to be implemented, there are certain known methods by which people beat this breathalyser test. What we have is the breathalyser test that is really based on saliva screening or alcohol screening devices that are more dealing with saliva having alcohol, and the breath having a certain amount of alcohol. According to the Bill, what you will find is that we could have a person conducting a breathalyser test at the site, and then there is the more elaborate test which is known as the evidential breath test to be conducted probably at the station.

Madam President, what we know and also from the research, is that from this initial screening—the manufactures have said that there is normally a 6 per cent error margin in terms of this. So, what we are talking about is that in 100 cases, where we would apply this test, six persons would either be accused of having blood over the limit or the six persons were at the limit, but the result proved negative to some extent. It means that we have to cater for that 6 per cent. This instrument is actually produced by a company called Intoximeters. They are producing this information to users of this breathalyser. What you have in those developed countries is not only the policemen who are using these breathalysers, but you have employees who must go through a drug test. We do have this on the industrial estate where we randomly test persons for drugs and for alcohol because they operate machinery.

What they have encouraged big companies to do is to actually buy these things and do random testing of employees. So, in addition to what the police would do, other people need to get the equipment, the instrument and also to be trained. These companies could use the literature to guide people and to literally sell their products.

What they are saying is that in determining the best instrument and to get a balance in terms of cost, they need to consider some other factors that would really affect, in my opinion, the implementation of this Bill. When they talk about alcohol screening devices or ASDs what they are actually asking is: Are you familiar with what might cause a false positive in the device? You see, you take certain substances such as charcoal and to some extent that will affect the saliva content. The Minister alluded to the fact that people would try to fool the system, and there will always be people who will be trying to beat the system.

Another important factor that will affect this is mouthwash which has a large alcohol content. This morning, just to double check, when I came across the information, I went to my bathroom to look at the Listerine and it has a percentage of alcohol of 26.9 per cent.

**4.00 p.m.**

It means that somebody who has the Listerine in the car even though they are on some kind of charge, will probably rather than be home drinking a beer, as the Minister talked about that example—might just gargle the mouthwash to fool the whole process, and if you do not have the information, you are unable to prosecute.

Some of the other concerns were really the calibration and maintenance of the devices, and some of this was touched by Sen. Dr. Mc Kenzie, when she talked about ensuring that people are trained and making sure that we have the best available equipment. I just want to emphasize those points that when we look at the instruments that we need to buy and we need to have, then we have to ask ourselves, are we using the instrument that has a high reliability level? Are we having sufficient amounts of these instruments and people trained on them? What about the calibration of the instruments and certification of it? Are we going to set up specific units to deal with them? How does shelf life affect the use of the breathalyser? Because if we buy these things and some of them are expired and we have these problems in terms of materials and so on, you will end up getting a situation where in the courts you will end up with a lot of problems, where people will be talking about the faultiness of getting this evidence.

In looking at the whole idea about the breath analyzer test and section 70B(1), which talks about the reasonable cause for suspect; what I am saying is that the police could probably suspect somebody of driving on the road in terms of swerving on the road and what you have are other factors that may have caused that. We know that even in our households even the use of certain cold medications,



you are advised do not take this medication and operate machinery, and most people because they have to go about their busy day may be engaged in this.

Also, you have people who physically may be challenged in terms of, they have speech impediments, impairments and so on and the police might think that they are drunk or influenced because they stutter. What you have is really a series of factors that could actually influence the smooth operation of this, that we need to take into consideration.

In looking at the implementation of this Bill, we need to consider what are the social implications for our population, because there are stiff penalties. How it is that we need to move them from a situation where there is no legislation—a policeman cannot accuse somebody of being drunk; he has to get a medical doctor to actually certify that that person is drunk—to the state now, where the police is empowered to approach the person and take that sample? That transition that we think would help the road carnage is not an easy one, because it involves complex social issues. And to really solve those problems we need to get up to steam with some of the First World countries in terms of the social system, the care, rehab centres and treatments that they have for alcohol addicts, persons suffering from alcoholism and people who are suffering from the disease of alcoholism.

So, Madam President, I would like to thank you for the opportunity to contribute to the Bill. I think we really need the legislation to help, even if it is to just address that one-third of the carnage on the streets, because every single life that we save is important to us. But we also need to make sure that the regulations that we put in place, not only help the people whom we are going to be accusing of driving under the influence of alcohol, but also the legal system to ensure the rights of citizens cannot be compromised in terms of when we take breath samples and blood samples. They should be able to have systems—and I did not see it—where they may be able to apply for some kind of judicial review of the whole process and ensure that there is a system of appeals. Even though we have the information there and we did not cater for having labs.

I just want to point out, just in case somebody decides that I do not want to take this test in the police station, I prefer a medical person takes it in terms of doing the same breath test or breath analyzing test that we are empowering the police to do and they challenge that, how are we going to deal with it. I do think the Bill is silent on allowing persons to have that appeal.

With that, Madam President, I thank you.

**Sen. Prof. Ramesh Deosaran:** Madam President, this Bill is pure culture shock for this country. I do not know what will happen during those two days of Carnival in this country. I think the Bill is really about a sense of responsibility, judgment, reason, due care and attention. Before I proceed, one of the important reasons that prompted me to speak, not only after my friend, Sen. Dr. Gopeesingh's contribution, but I think on my own part and I am quite sure on behalf of the Parliament, especially those who were not there in the Committee, I want to extend my deep congratulations to the Minister who chaired this Joint Select Committee—[*Desk thumping*]*—for the manner in which he conducted the affairs on this very complicated piece of legislation, on which opinions can be divided and which bear some, as I say, cultural sensitivities and with certain political implications if you move in a certain particular way. He had been fair but firm; he had been democratic but not permissive and I have enjoyed his leadership and I think we have come up with a Bill that really meets the expectations of the Government's policy. [Desk thumping] [Crosstalk]*

In order to keep, as I usually do, a proper balance on things, I also want to express my admiration on the manner in which the Members of the United National Congress and the other Opposition Members conducted themselves and contributed to what we have before us. You see, there is good reason for us to celebrate. [*Desk thumping*] If I should anticipate further virtue, there is another Joint Select Committee on the Equal Opportunity Bill, in which I am also a Member and I hope the same style and output be derived from the same Minister who I believe was asked to chair that particular meeting. [*Desk thumping*]

There is going to be a tremendous culture shock if this Bill is properly implemented; if the legislation with proper surveillance, effective policing is carried out. It will really create a significant change in the consumption pattern of this country. And that pattern is enshrined in many calypsoes; Sparrow; Adesh Samaroo, "Rum till I die", and you get a sense that this is a drinking and feting country. Some part of it is good, but there are other parts, which we are dealing with, where we require reason, responsibility and respect for the lives and safety of other people.

So at the same time, let us not give alcohol too bad a name. There is rubbing alcohol, drinking alcohol and from the literature on the French culture, I understand a glass or two of red wine at a certain time in your meal, is good for the heart. So we are about a balanced living and a balanced diet and I would hate to see we hold alcohol by its neck and squeeze every piece of virtue that might otherwise exist. We should not be too hypocritical I believe, because we all, if not

most of us, do enjoy a drink now and again. If we push this debate too far in terms of abstinence, many of us would not attend the celebration tonight, an American Independence evening. Perhaps it may be a good exercise to see how many of the guests there are consuming more than the three beers—whether they are fat, tall, male or female—and have to drive home.

My second point is, in terms of policing the Bill, I believe Sen. Phillip is correct, that drinking rum has a lot to do with addiction. Some people are addicted to drinking as they are with smoking, cocaine and marijuana. Alcoholism could be a serious lifelong addiction. And whether it is one offence, two offences or three offences and even with the pending imprisonment, because the force of the addiction is so strong, such affected people would persist in driving, hoping that they will not be caught.

The question is, in addition to the deterrent effect of the legislation to which Sen. Dr. Mc Kenzie alluded, I think we have to set up as part the infrastructure, some rehabilitation centres at the discretion of the courts, so that the problem in the individual will be cured, so that he or she will be a safe driver or at least get his or her addiction cured. So you need accompanying psychiatric assessment and the rehabilitation facility, which was mentioned previously.

My next point is on the cellphone issue. Madam President, I wish to remind you, and I am quite sure you will remember when I raised the issue of cellphone dangers to driving, I was criticized. I brought forward an editorial which criticized me for being too overbearing on the use of cellphones, but we are not speaking about using the cellphone or not. Here again, we are speaking about the responsible use of a utility, just as the responsible consumption of an otherwise good beverage. We are dealing here with a reasonable way of living, in a civilized or having to civilize our community with regard to other people's safety and life.

This issue of cellphone, as the Minister has implicitly espoused in terms of the legislation coming forward, I think with the alacrity he has displayed, he also has to be commended for taking that position. It is a safe position and I think it is overdue in my view, apart from what other countries are doing. We all witness people with their cellphones, taking corners, overtaking, laughing, giggling and driving badly on the road. It is a disgusting scene to witness.

It is therefore in that context I believe that some of us are speaking, even though we are on the fringes of the Bill, but Parliament sometimes should express its rage, its disgust at certain events in the country. And this is the message that this debate is conveying to the national community.

*Motor Vehicles (Amdt.) Bill*  
[SEN. PROF. DEOSARAN]

*Wednesday, July 04, 2007*

You have truck drivers now and you need to pay special attention to them. They blow their horns and they want to move everybody else out of the road recklessly. Then they have at the back of their tray, loaded with sand and gravel, "How am I driving?" The absurdity of our road traffic situation has degenerated to such an extent that many people are tempted not to feel sorry when reckless drivers are killed on the roads. They might even be tempted to say it is good for them, which is really not the proper answer. But that is the level of recklessness that anger so many of us and that is why we are all so upbeat about this particular piece of legislation and even the one coming on the cellphone.

So Sen. Dr. Gopeesingh is right, the question of lawlessness has permeated every nook and cranny in the country, and I am always happy to support the Government when it tries to straighten things up, whether it is vending, squatting and other such forms of lawlessness, whatever the price might be. [*Desk thumping*] Because it is not easy to straighten crooked iron; there is always some resistance to straightening something that is crooked.

Just three days ago, another vehicle passed me, recklessly cutting in front, only to find the same car quarter mile higher up, getting in an accident with another car. And on the back of his rear window is "Jesus Saves". So the bullying on the road must stop. The bullying on the road by these truck drivers, by these young punks, who feel the faster they drive, perhaps the more girlfriends they would get. But there has to be some reason why they drive so recklessly; showing off. Somebody made a point about driving for style. So these young punks now will compel some of us as legislators to revise the age at which driving licences are given. That is another step that has to be considered and it is justified; it is not denying anybody's freedom. The evidence suggests that these young punks—and you call them punks because they show no regard to other people on the road—who are just showing off with their cars making noise way above the normal decibel level, something has to be done.

There was legislation passed here under a previous Minister of Works, where you inspect cars for noisy mufflers, damaged headlights, nothing of the sort has taken place; the legislation is dead. It was not good legislation, I have said so, that is not the way because there are other things happening that could have been dealt with differently. At the same time, the inspection situation at the Licensing Office has apparently fallen down. You see cars on the road with mufflers heavily smoking in front of you; you see the back bumper half way falling off. You see the lights; you do not know which is a police vehicle, or which is a private vehicle, because they have almost similar blue lights flickering in the front. All

type of nonsense is happening on the road. You have the barriers on the road, somewhere in Gulf City; it was put there illegally. Look how far we are reaching; people make their own humps on the road now at nights. Really, the Minister's work has only just begun in this particular regard.

And when you say culture shock; the hon. Minister of Education, quite dutifully pronounced on some evidence about young people's behaviour in school. One of the items that she mentioned—and I was surprised that it passed so gently across everybody's notice—is almost 50 per cent of these secondary school students consume alcohol regularly at home; a lesser proportion at school. So when you speak about a culture of alcohol consumption and you are dealing with mainly adult drivers, you see where the habit is being germinated. When we also ask them in that study, how many times have you been caught drinking—and they answered anonymously, so there was not any pressure, in which they were compelled to disclose their habit—a large proportion of them said that they were never caught drinking. Those who said they were caught, we asked them what happened to them; were they counselled; were they advised not to do it? A large proportion said nothing, implying that drinking in the home for 13-year-olds, 14-year-olds and 15-year-olds is part of this culture of alcohol consumption.

So we have, as Sen. Dr. Mc Kenzie pointed out, to do some education both in the schools and by the parents, so as to remove that foundation for the persistence of this very bad habit. The employers must also take some responsibility for their drivers. The employers including Government agencies must be very strict on bad drivers; those who drive the Ministry of Works and Transport vehicles; the trucks and those companies, Coosal and Jusamco, they should look and make sure that their drivers do not treat people so rudely on the road; recklessly and bullying people on the road. When they say, "How am I driving", we also should make those reports and hope that the reports are treated seriously.

Now, there are other things I know; everybody knows most of what could be done; I will not list them in terms of the traffic lights. We have a bad traffic light situation at the Arouca Eastern Main Road, Priority Bus Route intersection. You do not know where the lights are. You have to take a torch light to find the traffic light. It is hidden behind lampposts and I do not know as yet, why there are not many more serious accidents there. Those are places waiting for accidents to happen. And you will find, as seems to be the habit in this country, maybe it is only when three or four people die at that corner then you will see busily the traffic lights going up.

*Motor Vehicles (Amdt.) Bill*  
[SEN. PROF. DEOSARAN]

*Wednesday, July 04, 2007*

We have to do like what the Bill expects to do, create deterrents, prevention, rather than waiting for calamities to happen. The Croisee, Curepe Junction and Priority Bus Route—the same thing. You need some serious traffic revisions at most of the intersections used by the Priority Bus Route; the Croisee is one. Sen. Dr. Gopeesingh is right, and we are not talking by guess; I know we are on the fringes of the Bill, but this is an opportunity to help straighten up this country and its bad road safety habits. The lights are red against you in the Croisee, where the priority crosses and yet you persist in blocking the road.

Worse yet, I had an opportunity to complain to the Commissioner of Police and the Assistant Commissioner of Police in charge of traffic, that when this congestion was taking place, two officers in a police car remained idly, unconcerned, indifferent to what was happening. When I beckoned to them to come and help the situation in the public interest, so that people would have a high regard for police officers and help the police, they drove away and give me a very rude gesture with their hands. Madam President, this finger in traffic has taken new significance to some of us who try to give some advice on the road.

When the data from the poll was cited, 67 per cent of the people—as quoted by my friend, Sen. Dr. Gopeesingh—have a fear of driving on the road. You know what is the significance of that? Many people now are scared to drive their vehicles. Some people who drive new cars keep them home, they are afraid to carry them on the road for them to get bounced; they drive their old cars. That fear of driving on the road, apart from being kidnapped and so on, is higher than the fear of crime itself; it is just a little over 50 per cent. So the fear of driving is much more than the fear of crime itself, which tells you how far we have gone down with respect to road safety.

So, Madam President, I will not want to belabour the points and repeat anything about Licensing Office and so on. I just want to encourage the Minister to proceed. It is a heavy responsibility and I have admired the way he has carried out this responsibility in the committee and I think I must say so on behalf of my Independent colleagues, I am quite sure, especially those who might speak afterwards. We want to encourage the Government to treat this matter of road safety very seriously with the cooperation of the Opposition Benches.

Thank you very much.

**Madam President:** Who is going to speak next? You have six minutes.

**Sen. Wayne Munro:** Madam President, thank you very much today such that I can make a contribution towards the Bill entitled an Act to amend the Motor Vehicles and Road Traffic Act. Before I make my contribution, permit me first of all, to recall an incident that happened in my personal life 15 years ago, being involved in a motor vehicle accident, in which a maxi-taxi collided with a vehicle outside Carib. The incident left me traumatized at that point, since I was paralyzed for approximately six months, unable to walk. And because of the treatment given to me at the Port of Spain General Hospital doctors and the support given by my family and friends, especially my sisters, brothers, mother and father, I was able to walk again. [*Desk thumping*] So this Bill brings back memories of that particular incident.

First of all, I will start my contribution by saying that we can learn a lot from the driving patterns of maxi-taxi drivers, when it comes to drinking and driving. If you ask me, this group of maxi-taxi drivers is one of the best drivers in this country. The reason is that, it is mandatory that a maxi-taxi driver pursue a defensive driving course, especially if they are allowed to drive on the Bus Route in Trinidad and Tobago, hence this group of drivers seldom use alcohol while driving.

The number of accidents that occur where maxi-taxi drivers are involved is few in number, as compared to other categories of drivers; be it the lorry drivers and other types of bus or omnibus drivers. Additionally, maxi-taxi drivers indirectly, through their driving techniques teach other drivers to be defensive drivers. The main purpose of defensive driving is to anticipate what the other drivers are likely to do while on the nation's roads.

The identification of hazards, therefore, becomes important in the minds of persons who are actually following a maxi-taxi on the Main Road or even on the Priority Bus Route. In the days leading up to general elections our party always has a large number of supporters in both big and small maxi-taxis, that are certified and they have their defensive driving certificates. There is a perception that plans are here to increase the driving age from the current level to approximately 21 years. Such a plan to increase the driving age to 21 years will add frustration to the young people who are anticipating their 17<sup>th</sup> birthday to apply for such driver's permit.

**Hon. Imbert:** Will the Senator give way? Thank you Senator for giving way. I am not aware of any such plans to increase the driving age at this time. There have been suggestions that we look at it, but there are no plans at this time to increase the driving age to 21 years.

**Sen. W. Munro:** Thank you very much for that response and I will repeat what I just said. I said there is a perception. Perception means the public has an outcry—Madam President, through you—it is a concern about that particular age. I did not say that is actually going on; I did not say that at all.

I remember when I was in the process of turning the age for my driver's permit, I had nightmares about the dreaded three-point turn; no hand signal using and other things. In the end, I ended up getting my driver's permit. My first car was a Mini, PAL1764, which I purchased at a cost of \$2,500 cash. Madam President, I can recall my experience as a young driver travelling with my mother, father and relatives. At that point, they tend to restrict you as to what you could do and what you could not do as a young driver. Can you recall that, Madam President, of your experience as a young driver? I remember particularly putting a ban on my relatives on speech; speaking in my Mini. However, it was only when I did the defensive driving course that I realized that I did the right thing by putting a speech silence on them. Within defensive driving, the key component is that the driver must not be disturbed while he or she is driving.

**Madam President:** I am sure you still have some way to go, so we will take the tea break and when we return you will continue. We will suspend for tea and come back at 5.00 p.m.

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

**5.00 p.m.:** *Sitting resumed.*

**Sen. W. Munro:** Thank you very much, Madam President, for allowing me to continue in this debate. It was only when I did a defensive driving course that I realized that I did the right thing by putting my relatives on a speech ban in my Mini. One of the key rules in defensive driving is that the driver must not be disturbed by the occupants in the vehicle since the driver needs to concentrate or to identify the different road hazards, especially caused by drunk drivers.

Additionally, there is the concern that measures are on the way to ban a number of vehicles whose registration plates have two series, since it is perceived that these vehicles are the main cause of accidents in Trinidad and Tobago. I have a picture, Madam President—*[Holds up picture]* a copy for you as well—of a Consol, approximately 65 years old that has been passed on from one generation to another and it is roadworthy. First, if I am involved in an accident I would prefer to be in this vehicle as opposed to another vehicle that has all the modern conveniences as air bags and seat belts.



A number of vintage car owners in Trinidad and Tobago who have certificates of inspection are being denied insurance. Such an act is unfair. If a car has a certificate of inspection indicating that it is roadworthy, why should insurance companies deny owners of such vehicles insurance?

**Sen. Kangaloo:** Madam President, on a point of order, 35(1) relevance, because we are kind of straying now into vintage cars and—

**Madam President:** Yes, I know I did allow some leeway to the initial speaker but because he was—I think you really need to come back to the Bill, let us talk about the breathalyser and its significance.

**Sen. W. Munro:** Madam President, I was coming to that point later on, the point ties up, because there is a concern that vintage car owners are not getting insurance for their vintage cars.

**Madam President:** That does not come under the Bill.

**Sen. W. Munro:** The reason for asking that, is the concern that we will see an end to vintage cars in Trinidad and Tobago.

In an attempt to address the carnage on the nation's roads there is a need to incorporate levels of defensive driving in the school system—back to the point. Development of a national defensive driving programme is a step in the right direction. For one, this defensive driving initiative can reduce the number of accidents on the black carpet if the stakeholders are involved in the formulation and delivery of defensive driving packages to pre-permit holders. Additionally, the only educational institute that has a defensive driving programme for students in Trinidad and Tobago is the School of Continuing Studies, that emphasizes no alcohol while driving.

Madam President, through you, possibly the Minister of Education, the Hon. Hazel Manning should consider that. For a defensive driving programme to reach out to a wide cross section of persons in Trinidad and Tobago, probably they should consult the assistance of the SCS in any drive towards incorporating a defensive driving programme in their initiative.

Madam President, where are the heroes? An accident occurred at a junction, a fireman risks his life to save another and where is the appreciation by this administration? Whenever a fireman or police officer risks his life to assist a member of the public in a developed country, that person is treated as a hero in that country. There is, therefore, the need to publicly recognize members of the public who put their lives at risk, especially police officers and fire officers who

*Motor Vehicles (Amdt.) Bill*  
[SEN. MUNRO]

*Wednesday, July 04, 2007*

go to assist persons who suffer trauma via motor vehicle accidents in Trinidad and Tobago. I can count on one hand the number of police officers and fire officers who have been given houses in any set of housing development in Trinidad and Tobago. It is regrettable that a large number of fire officers who put their lives at risk—

**Madam President:** Senator, just one moment. I think you came today with a number of issues to raise. First it was the maxi-taxis, then it was the vintage drivers; now I think you need to get back to the Bill. Nothing that you have said there has any relation to the Bill. Please!

**Sen. W. Munro:** Madam President, the emphasis I am trying to build up to the link and the link is that persons involved in accidents, motor vehicle accidents via drunk driving, they are assisted by individuals and there is a need to give some kind of support or recognition as is the case in developing countries.

**Madam President:** Having mentioned it, now move on.

**Sen. W. Munro:** In developing countries as other speakers have mentioned there are cameras installed and measures are in place to recognize the efforts of persons who make contributions in the area of assisting persons who suffer trauma after accidents caused by persons who were drunk driving. That is the point.

Madam President, with the above in mind, I thank you very much for this opportunity to make my simple contribution to this Bill, emphasizing, particularly the need to have some levels of training provided in terms of defensive driving to a wide cross section of young people in Trinidad and Tobago. Hence it is a move in the right direction in order to prevent accidents occurring on our nation's road in Trinidad and Tobago.

Thank you very much, Madam President.

**Sen. Mary King:** Thank you, Madam President. I think congratulations are certainly in order for the Government and for our hon. Minister on a good Bill. Even if it is long overdue, Mr. Minister, through you, Madam President, it is a good Bill. However, I have a few comments to make on just a couple of the sections and perhaps what I am really looking for are some clarifications which we may get in the summing up session.

Madam President, section 70B(1) of the Bill suggests that the constable has to have reasonable cause to suspect that the person in charge of the vehicle on the road has alcohol in his breath or blood exceeding the prescribed limit, et cetera.

So, is reasonable cause, simply that the officer can smell alcohol on the driver's breath, at say a checkpoint, or should some other physical demonstration be required? Is it that in every accident situation we would actually have to do the breathalyser test? What are the other conditions that might cause the constable to question the capability of the driver? So, I am just wondering if we should not be spelling out some more specific conditions that would warrant the breathalyzer test to be done.

Section 70c, but in subsection (12); I would think that the various instruments being used to test the breath of persons should be in good working condition. And I say this, given our own history and given our recent experiences in the health sector with incubators, with anaesthetic machines. How can we ensure that these instruments are always in good working conditions, and should these instruments not be routinely calibrated and a certificate issued for a specific period of time, so that we would have frequent tests and frequent certification of those pieces of equipment?

Under equipment as well, we also see in section 70C(13)—this section gives the Minister the power to approve the device to be used “by Order” of the Minister, and I am just concerned as to how does the Minister acquire this capability. Is it that he would be in dialogue with the police, with the technologists? Who would the Minister be in dialogue with to ensure that he would have the information that would be able to give him the power to approve the device which he shall give by order? I am sure that he would give us that information as well.

Section 70F states that the person who has been given a blood test may also be given a specimen of this test, and I am presuming that means that this person can then have his own doctor carry out a comparative test. Not knowing the technology of the breathalyser, I am wondering, is it possible for the person to also get his breath analyzed and checked by another doctor or analyst, and if so what would be the time frame between tests? It is not clear to me so I am asking for clarification.

However, one of the biggest problems I have with the Bill is that I think it is too narrow in its concept, narrow in that it does not include other substances such as illegal drugs. I know that the Minister has said that they are looking at illegal drugs because we all know that illegal drugs do impair drivers' skills and therefore we have to be very careful about including illegal drugs. We also know from all our other information that in today's world, especially in Trinidad and Tobago illegal drugs are very easy to be obtained, and though a person may pass

the alcohol blood test he may also be impaired through the use of illegal substances like drugs. So I think it is imperative that we speed up the drug analysis test. This research is available in many other countries and just as we have used other countries' laws to develop this one, let us get down quickly to the business of testing for drugs legally and legislate it in Trinidad and Tobago, and let us do it quickly. It is very urgent.

Section 70E(1) and (2), and I am looking at sentencing. I am of the view that the sentencing prescribed in this Bill should be much more onerous if we are really serious about reducing accidents related to alcohol use. Surely if we are working on the same basis as we work with in other bills and as we prescribe sentencing in other bills, besides having a “fine” we also would have “and imprisonment”, I think in these two sections we have a “fine or imprisonment”, and I think we are being very lenient. If I had anything to do with the Bill, but I am only one voice in this Senate, for any two consecutive offences we are suggesting that we disqualify for 12 months. I think that is a very light sentence and I would go for 20 years—

**Hon. Senator:** “Ooh”.

**Sen. M. King:**—given what is happening on our roads. I am talking about what is happening on our roads.

Madam President, with the ever increasing fete mentality in the country it is evident throughout the year but obviously we have spikes at particular festival times, our children also appear to be drinking alcohol at an undesirable level and at obviously undesirable ages. This is not the only country with that as a problem; it is a problem right across the developed world and not just in secondary schools, but also in the tertiary education institutions.

We did have some figures today from Sen. Prof. Deosaran who was quoting from the hon. Minister some weeks ago, where we have got research which has shown that 50 per cent of the secondary schools' young people are drinking alcohol and even at home. The carnage on the road, especially among young drivers suggests that we also have a major problem in Trinidad and Tobago with young people drinking, and possibly, it extends to other drug use. And this is why I would be very concerned that we bring the drug testing legislation also to this Parliament, and also the reason I think we have to be more serious about the sentencing.

We also see tremendous advertising going on, especially Government institutions, to demonstrate good performance of their ministries and I think it has already been suggested, we need to see a similar type of advertising programme

that would demonstrate to the young people the effects; the effects of driving when their skills are impaired due to alcohol and drugs, and I think we should also include the effects of tiredness and lack of sleep, because they may not be drinking but they may be studying late, feting but not drinking and obviously tired and not able to focus on what they are doing.

Madam President, this Bill will just be another ineffective piece of legislation if we do not ensure that we do have the trained and qualified police on the roads to carry out the tests. It has been mentioned before. I think it is a very important point. I can drive from Port of Spain to San Fernando, many evenings and see little or no sign of the police, especially at nights when the offence of driving under the influence of alcohol and the other drugs is very prevalent. So, I also hope that the police themselves would recognize that the passing of this Bill also assumes that it will be implemented and that this requires a large police presence on our roads, in certain fete hot spots and in certain accident prone parts of our highways. Just the very fact that the police would be out and be more visible on the roads, this may also deter some of the other abhorrent practices that are happening by our young people such as drag racing, et cetera.

So in closing, Madam President, we do hope that the police have been getting the required training and that we are not in the position perceived by Sen. Dr. Gopeesingh that the police are not ready. Surely, the Minister will inform us that they have been working in co-ordination with the development of this Bill and that our police will be at the readiness. [*Cellphone rings*] Otherwise we would all have been wasting our time here today in this Senate and I do not think we want that sort of legislation to come before us without proper regulations and without proper systems of implementation. So I hope the Minister would be able to tell us that this Bill is going to bring action and it is not just old talk.

Thank you very much.

**Sen. Dr. Jennifer Kernahan:** Thank you, Madam President, for the opportunity to contribute to the debate this afternoon on the Motor Vehicles and Road Traffic (Amdt.) Bill, 2007. This Bill requires a special majority because it offends sections 4 and 5 of the Constitution. And the cooperation and the standards that we have achieved in bringing this Bill to Parliament today speak volumes for the fact that Joint Select Committees of Parliament are important. The cooperation and the participation of the Opposition is extremely important in national development, generally, and this is a lesson that we should take into consideration on a wider scale in terms of giving full status, authority and support to Joint Select Committees of Parliament and also the Special Joint Select Committees of Parliament.

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

Madam President, this Bill is before us because it is necessary, literally, to save some citizens from themselves, and it also is necessary to protect other citizens from the irresponsible attitude of road users who have no respect for life, no respect for law, no respect for authority, and who cause death and destruction on our nation's roads, primarily due to the over consumption of alcohol. But of course, as we go along and as many other speakers have said here this afternoon, that is not the only cause of the road fatalities; it is one component and we have to look at what are the other components and how we can address them.

I want to look at some of the analyses that have been made on our local situation here with respect to road deaths and road accidents, and this is a PubMed Publication; it is titled "A contemporary analysis of road traffic crashes, fatalities and injuries in Trinidad and Tobago" by G. St Bernard and W. Matthews. Apparently it comes out of the Sir Arthur Lewis Institute of Social and Economic Studies, University of the West Indies. Madam President, it says here:

"Road safety, in particular pedestrian safety, is a problem in Trinidad and Tobago. Data were derived from the database of the Traffic and Highway Patrol Unit of the Trinidad and Tobago Police Service. Road traffic crashes in Trinidad and Tobago are largely an urban problem. Four urban areas accounted for nearly three-quarters of the reported road traffic crashes, fatalities and injuries..."

So, Madam President, that is data that we could look at very seriously to zero in and home in on these four urban areas that have been identified here. It says here:

"Pedestrians, passengers and drivers accounted for 93% of fatalities and 95% of injuries due to road traffic crashes in 2000. Pedestrians alone accounted for 42% of fatalities and 34% of injuries in 2000."

So, apart from the drivers and so on who are involved in road fatalities, pedestrians are victims of these road crashes. Forty two per cent is a very high percentage, so you find that drivers are causing 42 per cent of pedestrian deaths, and therefore you find that the onus is on us to look at how can we sensitize pedestrians as to how they utilize the road and so on.

Sen. Dr. Gopeesingh made the point that some of them have the attitude, bounce "meh nah" and that is a problem. Jaywalking is a normal part of our cultural experience here in Trinidad and Tobago, and therefore we have to look at these figures and tailor the response, so that we get these figures down over time. I think this is something that we have not yet started to do in terms of research and data. It is not just us, I have seen in the literature where even developed and

advanced countries have made the analysis, people have made the analysis that not enough data and so on, is collected and analyzed over time with respect to road traffic accidents, so that you can home in on the causes and fine tune their response to these problems.

I also saw an interesting response to road deaths, because the Americans have done a study in their data collection and so on; they are even looking at how many Americans die and how they die when they travel abroad. So in addition to looking at their data and their local environment, they are looking at the fact that in low income and middle income and developing countries, because of the high levels of road deaths, road crashes and so on, how this impacts on the American visitors and travellers when they go abroad and they have been doing studies and they made certain statements that are interesting for us. This document is called, "*Road Crash Deaths of American Travellers: The Make Roads Safe Report*", it is "An Analysis of U.S. State Department Data on Unnatural Causes of Deaths to U.S. Citizens Abroad (2004-2006)". Madam President, it says here:

"Motor vehicle-related deaths are a major and growing global health burden. The World Health Organization (WHO) has estimated that in 2002, nearly 1.2 million people died in road crashes worldwide and between 20 and 50 million were injured...Road deaths already are responsible for deaths on the level of malaria and tuberculosis and these deaths are forecast to double by the year 2020. Many of these deaths and injuries are preventable."

So that is another key component in the look at road deaths. The report goes on to say:

"The World Report on Road Traffic Injury Prevention, published by the WHO and World Bank in 2004, details the key road injury 'risk factors',...These risk factors include: alcohol-impaired driving, lack of helmet use, lack of seat belt use, excessive speed, poor road infrastructure design and management, fragmented emergency medical services, and limited acute care services."

So, Madam President, that study identified these as the major risk factors in terms of road deaths. Right away we can look at the holistic approach, what we can do in terms of each of these items to prevent what they said are preventable deaths due to crashes on the roads and excessive speed.

What we are dealing with today, is alcohol impaired driving, but look at the number of other factors that are involved in preventable deaths on the roads, and we can look at these things right away, we do not even have to come with legislation to Parliament and so on. These are things that could be implemented

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

very quickly in our society with the political will and the goodwill of everybody involved, with the education of the population to decrease road deaths significantly if you just enforce, and the implementation of certain of these other factors.

My colleague, Sen. Dr. Gopeesingh spoke of the poor road infrastructure design and management, he spoke of a number of factors to deal with that, but we have not spoken about the fragmented emergency medical services on the roads. We have seen the response time to road accidents here in Trinidad and Tobago, half an hour sometimes. There was even a case recently where a woman was raped and a security team found her at the side of the road and an ambulance passed, and apparently that ambulance—an emergency response ambulance—was not authorized to pick this lady up and carry her to the hospital and they had to wait. We have these things happening in our society still where the medical emergency response on the roads is insufficient, and it needs to be beefed up. Actually, when you go to the hospitals, that is another story, where you have this total sort of callousness with respect to accident victims.

Madam President, my daughter was relating me a story recently, where a young girl got in an accident and she broke her knee, I think one of her knees was broken and she was sitting in the casualty at Port of Spain General Hospital waiting on medical attention and she had to go to the bathroom, and she asked a nurse passing, “I need to go to the bathroom, could you help me go to the bathroom?” Do you know what the response of the nurse was, Madam President? “Hard luck”, and she left. This is the sort of mindblowing experiences that our people in 2007 still have to undergo when we go to access care at our institutions, and this is not an isolated incident. This is something that we saw recently in other cases and so on. A lot of cases are coming forward in terms of medical care and access to services.

These are some of the things that we could address immediately, apart from this component that we are dealing with here this afternoon to decrease the horrific number of road deaths and loss of lives on our roads.

### **5.30 p.m.**

Madam President, I was making the point that the Americans have gone to the extent of actually looking at what is happening in Third World countries and developing countries in order to advise their travellers on how to approach other countries. Here is what their recommendations are and this is important for us



because we are a tourist destination; the Caribbean is a tourist destination and these are the sort of advisories that potential tourists would get, who would like to come to our countries. They said:

"Americans who travel abroad can greatly reduce their risk of being killed or injured in a road crash by finding out information about a country's road safety in advance (available through public access websites and publications), planning ahead, travelling during daylight hours, using mass transportation, paying attention to traffic patterns and local customs, and following universal safety guidelines such as using your seat belt use, not drinking and driving, and not speeding."

So, our traffic fatalities and so on are going to be investigated by people of other countries before they come here. So this is not only important to our own citizens, it also has an economic aspect of it because if you have these horrifically escalating road traffic accidents and fatalities, then it is going to scare people away from coming to our countries.

Madam President, many of the Senators here spoke today about the sort of devil-may-care attitude of our drivers on the road; running red lights; the lack of courtesy; the lack of empathy; the lack of regard for elements of defensive driving and so on. I do not know—it seems to me that it is symptomatic of some underlying mania that we have in the society right now. My colleague spoke about the maxi-taxi drivers and the way they drive and operate on the road, that clearly has an economic component because when you have a maxi that is not owner operated and he has to make \$300 to give the owner, then he has to make something for himself, clearly, the way these people drive indicates to you that they are running against the clock; that they have serious issues; and they risk life and limb, their passengers and pedestrians included. So, some of the economic aspects of the policies with respect to drivers on the road and the use of private transport will clearly have to be looked at if we are to reduce the carnage on the road. Because as you know, initially, some of these maxis were meant to be owner operated and that is a serious factor.

Madam President, when I leave here approximately 9 o'clock or 10 o'clock in the night to go up on the bus route, it is some of the most horrific driving that you would find, because apparently that is the last trip and maybe they have to make one more trip before they give in their maxis. It is actually a death defying experience to go up on the bus route sometimes late on evenings. I have also noticed over the past few years that women and all are becoming more aggressive

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

on the road where previously you would have found that women would more tend to give way or to help you and so on, if you want to come out of a cross street and so on. Women are driving as recklessly and aggressively as men have traditionally done.

One of the things that we would see later on is that we really need to look at a holistic approach to these issues of how we use the roads. How do you encourage a more thoughtful, a more courteous, a more intelligent approach to using the roads, both on the part of drivers and pedestrians? This is not something that you can legislate. Clearly, you cannot bring a Bill to this Parliament as you can do for driving under the influence, to legislate courtesy or thoughtfulness or empathy, but what you can do is to wage a massive public relations campaign. I would like to see a campaign which would emphasize that we are all our brothers' keepers on the road and if we can get that into the mindset of people on the roads that we are all our brothers' keeper and that we are there to help and protect each other on the road, this will impact massively on the carnage and the deaths on the roads as much as would legislation which would impact on one set of drivers.

I am sure that there are a lot of drivers on the roads who do not drink. They do not drink and they are not under the influence; they are not drunk, but they are ruthlessly cruel and inconsiderate; they overtake and they do all kinds of things worse than drunken people. Maybe for the most part you would find a drunk driver a little inebriated, he might just be going along quietly trying to be inconspicuous and so on; he might be weaving a little bit, but sometimes they are not as dangerous as people who are not drunk. So, how do you deal with the people who are not drunk and are in full possession of their senses, but who are ruthless on the road to cause loss of life and limb? I think it was mentioned by other Senators that the way we can do this is to have the impact and visibility of police officers on the road, so that people can straighten up. You know, there is some consequence to what I do.

Madam President, I pride myself on being a very careful driver. I do not run lights and so on, but whenever there is a police car behind me, I still straighten up. I still feel self-conscious; I am very much more self-conscious about what I do than if there were not so, far more for people who know themselves to be lawbreakers and so on, that would help a lot in curbing the experience.

This Bill has addressed the issue of alcohol and so on and Sen. Prof. Deosaran raised the issue of young people, the cultural patterns and the attitudes of young people in terms of drinking and so on. When we look at the literature of the Scottish experience, one of the things they did was to mount a campaign called

“Communities Mobilizing for change in alcohol and to reduce underage access.” It was found that after two and a half years when they did their checks and so on, that the sale of alcohol to minors was reduced.

Madam President, we do not have much data on young people and their drinking habits and patterns. I know Sen. Prof. Deosaran mentioned the statistics quoted by the Minister of Education with regard to young people drinking at home and so on. But you see, on any given Friday if you walk the streets in Arima, Port of Spain, wherever young people congregate and so on and it is a cultural reality now that all these young people congregate at bars, at recreation clubs and at places where alcohol is sold, and the reality is, what they do there is drink. They drink themselves silly—five, six, seven, eight beers for the whole evening.

I have seen young sportsmen and not so young sportsmen who—that is the cultural norm in this country. I was discussing with some young people, and in fact, one young person said to me recently—she is a young person and she goes to some of these recreation spots sometimes to just lime and so on, but she made note that there should be some other form of recreation in the communities for young people. Without alternative indoor facility, where you can play different kinds of billiards or whatever games; indoor sports and so on; where you can lime without the compulsion to drink because when you are in a bar the only thing that you do there is to drink. But if you have a community-based approach where you can have a facility where young people who have some disposable income—it is Friday they want to lime and so on, but there must be other outlets for their energies, that sense of relaxation that they want to achieve. How can we provide that?

In the absence of that, all they do is drink themselves silly on Friday night and have to get up Saturday morning to go to work and that is a serious problem. This is not something that we can discount and what is happening, we know alcohol is addictive. So as a young person who has just left school; you start to work; you have some money; you go out with your partners and lime by the bar on a Friday and that becomes a pattern, after a while they are confirmed alcoholics, they cannot stop. After a while you would see them drinking in the morning; you would see them drinking at lunch time; you see them drinking in the evening; they drinking in the night because it has become a very destructive addictive pattern of behaviour, a cultural pattern of behaviour, that is reinforced by their peers; is reinforced by the status quo. It is a big thing to drink and they boast about the number of beers they drank the night before; and the more expensive liquor that they can afford; it is a status symbol to attract the girls and so on; so, it is a whole cultural issue that has evolved here and it not going to go away by itself.

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

There must be intervention strategies that we can put in place as a Government, as a community, as a people that would deflect our children away from that culture of drinking which becomes addictive and after a while it is a medical problem. I have seen this Bill and we have talked a lot about the fact that we are going to fine people, we are going to advocate jail terms and so on, but there is no remediation concept where we deal with it. A lot of these people are addicts, just like a cocaine addict, a drug addict or any other illegal drug, and the only difference is that alcohol is socially acceptable and it is legal, but they are addicts and they need help.

So, bringing legislation and we are going to put more of them in jail, therefore, we would have to build bigger jails because we have a lot of alcohol addicts in this country, very young people too. So, what are we going to do, put all of them in jail? What are we going to do? We must have a holistic approach. In the Bill before us in section 70(B)(1) where the police has the power to stop persons and so on, I think Sen. Mary King made the point, the whole question of on what basis would a police officer reasonably suspect that somebody has been drinking? I am not clear in my mind, what are some of the reasons that the police may use to stop someone as the Bill says, that they have reasonable cause to suspect? Is it that the person would have been speeding? Well, that is one obvious cause; weaving in and out of traffic; maybe having run a red light; reckless approach to overtaking, but as I said before, all these acts are committed by people half the time who are not drunk. They are not drunk. They are just aggressive and lawless and they feel that they have this power on the roads. I think there is some demon that maybe possesses people when they get behind the wheel of a car, that they are transformed into somebody else and something else that has all this power, energy and could literally run you off the road.

Madam President, I am sure you would have experienced people literally running you off the road, you have to dive back in your lane, when you are just trying to overtake. They see that you are just trying to overtake and you are going to go back, but they are there on your bumper and they literally want to run you off the road. So, therefore, I am certain we need to get the data because we do not know what percentage of these people who would do these things are really under the influence or people who are just aggressive. So, we need to get the information.

Sen. Mary King made the point, what it would come down to, because if you are going to use these indicators, reckless driving, overtaking and running red lights and so on, it really comes down to random testing. Because a policeman cannot tell—unless the car is actually weaving obviously out of control—whether

that is a case of an intoxicated driver or is just a ruthless, aggressive person. So, it would come down to stopping that person, actually random testing. In fact, it has been shown that in some countries they have gone that way, that the policeman does not necessarily have to suspect the persons of inebriation as such, but they can stop people randomly and take the breathalyser test, and later on, maybe the blood test.

In fact, I have an experience here of Australia because I know we looked at the Australian example. I have a document, "'Alcolyser' roadside blood-alcohol breath tester, 1993," and this is their experience and I quote:

"Between 1925 and 1970, there was a steady increase in road fatalities in Australia, but since the 1970s serious measures have been taken to address this major cause of death. As a result there has been a considerable decline, not only in the rate of fatalities per 100,000 persons in Australia, but also in the outright number of deaths per year. According to a report prepared by the Australian Bureau of Statistics in 2002, major contributions to this turnaround have come from improvement to roads and vehicles, enactment of road safety legislation, intensive public education and enhanced police enforcement technology"

Madam President, that is clearly their holistic approach. It goes on to say:

"One ... of the key developments has been the introduction of blood alcohol limits..."

So, this introduction of testing had been a key component of their multi-pronged attack.

**Sen. Dr. Gopeesingh:** One of the components.

**Sen. Dr. J. Kernahan:** Yes, one of the components. And I continue:

"...massive public education about the dangers of drink driving, random breath testing and a well structured system of penalties for driving over the limit.

Initially, police could only test drivers and riders if they were involved in an accident or were breaking the road regulations in some way. But in 1982 random breath testing was introduced. Over the years different instruments have been used for roadside breath tests..."

Madam President, it is clear that they evolved from the question of maybe being able only to pull aside people who are involved in road accidents or if they are breaking regulations and so on and they introduced the whole system of

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

random testing. I would support that kind of approach because it is very difficult to determine who is drunk or who is just plain inconsiderate, aggressive and driving to cause death and destruction on the roads.

One of the things that they did also was to make the prescribed limit for breath alcohol concentration 35 micrograms per 100 milliliters of breath and the blood alcohol concentration, 80 milligrams of alcohol for 100 milliliters of blood.

Madam President, our—[*Interruption*]

**Sen. Dr. Gopeesingh:** This is it here.

**Sen. Dr. J. Kernahan:** Yes, we have a similar blood level of 80 milligrams per 100 milliliter and the breath is the same thing, but they have lowered the threshold for the breath alcohol because they have found that by lowering the standards, they get more people off the road who are driving under the influence and so on and they have found very good results with respect to that.

They also said when they looked at lowering the blood alcohol level to 50 milligrams per 100 milliliters—from 80 to 50, right now they are at 80—and they are looking at lowering the blood concentration even lower to 50. I understand these measures and I agree with these measures because you have to get these maniacs off the streets and protect our children. My daughter got her licence yesterday, but you know it is a scary thing, it is no longer a cause for celebration when your young children get their licences because at the back of your mind you know what they are going out there to face. They are young, inexperienced drivers and somebody who is more experienced can have these horrific encounters on the road, road rage, so with what sort of comfort do you send your young children outside? Although it is necessary, they have their things to do, they have their classes to go to, they need that independence of movement, but it is really terrifying now.

So, I would agree with any legislation that would come subsequently as we move along to see how this one works to even tighten the restrictions and lower the thresholds to reduce the number of people driving under the influence on the road. We have also found that other people have done some studies and I have a bulletin before me called “Health Evidence Bulletins” by Dr. Ronan Lyons on road traffic accidents. They have the studies to back up the decisions they have taken with lowering thresholds and I would quote:

“A reduction in the permitted Blood Alcohol Concentration to 50 mg/100 ml is likely to lead to a reduction in injuries. The Australian Capital Territory

reduced the legal limit from 80 to 50 mg which led to a 41% reduction on incidence of driving with a blood alcohol concentration > 150 mg, and there were a third less injured drivers with a blood alcohol concentration > 80 mg.”

Madam President, it is clear we have not done the research, but they have done the research. They have seen what they were able to achieve and it is clear that they achieved 41 per cent reduction in injuries when they lowered the thresholds from 80 at the blood level to 50.

We are on the right track; we have just started and this is going to evolve over time in terms of our experience and how well we are able to enforce; how well we are able to put the relevant warm bodies out there and to get the statistics and to understand what we do, how it affects us and what we need to do next. These are problems we have. We do not have that follow through; that monitoring; that understanding of what we are doing and how it is affecting us. I think together with what we are doing here this afternoon, the regulations should provide for that monitoring, for that serious scientific approach to the studies that would be involved, so that we could understand that when we move from point A to point B, what we accomplish; when we move from point B to point C, what we expect to accomplish and what we would have actually accomplished. So that we would not just be doing things in a vacuum, but we would be doing things based on scientific knowledge, evidence, relevant data that we would have accumulated here. And this is something I believe is the missing link and more than ever it is necessary in this particular instance where life is involved.

It is a question of life and death here and I read some data where they identified four major urban areas. What are we doing to zero in on those urban areas and to implement measures that would reduce the levels of road fatalities in those areas and to measure what we are doing and to say, “Well, look by 2020, we want to reduce the levels of road fatalities in those areas from X to Y.” Is that what we are doing? If that is not what we are doing, we are just spinning top in mud because we would never know where we are and the measures we take so long to bring to this Parliament that we have gone over in committees and so on we mull over so much, we do not know how those measures are standing up in the real life scenario out there.

So, Madam President, we were talking about implementation. A number of persons spoke about implementation and the social response to what is happening. And it was mentioned that we have a limited number of police officers. I know Sen. Dr. Mc Kenzie mentioned the fact that all police officers should be trained to use the breathalyser equipment and to be able to test people and so on, but I do

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

not know if that is the intention. That is something I have to ask, if all police officers would be trained or if this would be restricted to traffic police, dedicated police who would be doing this work. So, this is something that I would really like to get cleared up. It is a question because the Bill suggests that all police officers would have to be trained; the Bill does not suggest—it says any constable is empowered now in this Bill to pull over somebody and administer the test. It suggests to me that all police officers would have that responsibility.

This implies a tremendous amount of manpower to really cover the territory and to look at—especially as one Senator mentioned that there are spikes sometimes in the seasons, Carnival and different times when you have a lot more people drinking on the road and so on. You also have the question of bars and clubs and so on where you have special areas where you have a lot of people coming from at nights who are definitely going to be under the influence. So, I was wondering if it is that you are going to have a strategy whereby police officers would be sort of placed close to these known areas where people are drinking and come from bars and so on.

In the news recently, there has been more than one announcement of accidents on highways where people were coming from a particular club and going home—different clubs and so on. So, it is clear that people coming from clubs and bars and so on late at nights are at risk and I do not know if there would be a strategy to focus on these areas to ensure that people—*[Interruption]*

**Sen. Dr. Gopeesingh:** There is compliance.

**Sen. Dr. J. Kernahan:** Yes, there is compliance. Madam President, my children have said to me that you actually have people coming out from these clubs weaving and starting their cars and going home. Some of them reach home by the grace of God; some of them kill other people; some of them kill themselves and this is what you have. I do not know if you are going to have police officers who are now going to be selective about where they station themselves to administer these sobriety tests because maybe that might help in keeping some of these people off the road.

Madam President, this is an enormous task. I do not know if also we would have the issue of bartenders and people who serve alcohol—as it happens in other jurisdictions—would be required by law to desist from serving people who are obviously drunk. That is another way that other jurisdictions have gone to curb the impulse for people to over drink and to go on the streets. I am sure you have



seen on the television and so on whereby people who are drinking are forced to hand over their keys to the bartenders and so on because they would not be allowed to leave that establishment to go to drive, so they actually take their keys from them.

So, all these are issues that we as a society would have to look at if we are going to put some of the responsibility on people who serve alcohol, to ensure that they do not serve alcohol to people who are obviously over their limit and who are drunk. If we are going to put some of the responsibility on some of these places not to have people leave; to ensure that they do not leave those establishment driving after having a number of drinks because at the end of the day we all have to take responsibility for this phenomenon.

It cannot be just the police; it cannot be just the clubs or the bars; the individuals, we talk about freedom of choice, but you do not have a choice when it comes to other people's lives, if it was your life alone and even suicide is against the law. So, when you are talking about people's lives, we do not have that kind of freedom and that kind of choice, we should look at ways in which all stakeholders in this phenomenon can contribute to making our roads safer for young people and all users.

**6.00 p.m.**

Madam President, this Bill provides also in clause 6 for final imprisonment for refusing to submit samples for testing when required to do so. On the first conviction you have a fine of \$5,000 or six months; the second conviction, a fine of \$10,000 or 12 months, and so on. This Bill also provides for the suspension of driving licences.

As we have said again and again here this afternoon, we have a lawless society. Therefore, if we do not have a serious approach to implementation, what you are going to have is people driving on the roads of this country who do not have a licence to drive. They are going to do it. The deterrent to that must be that there is a high likelihood of your being pulled over and being found without a licence and being severely punished for doing so.

I did not see any—in fact, you would have another law that will deal with driving without possession of a licence. But this is not going to work unless you have that kind of deterrent; unless you have that kind of likelihood where the offenders will know that there is a high likelihood. If you know that there is a very low likelihood of your being pulled over for any reason—driving or being without a licence, and so on—the only thing that we are going to accomplish is

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

that a lot of people are going to be driving without licences in this country and further endangering the ordinary population.

I looked at the aspects of accidents and the “Traffic Conflict Techniques and Other Forms of Behaviourial Analysis: Application To Safety Diagnoses”, and this was just a document that would back up what I was talking about in terms of the kind of data that we need to generate, to understand what is happening in our country. This is something I would recommend to the hon. Minister in terms of the identification of the problem; analysis of the problem, and so on. This was a very extensive document that would give any one of us who is interested—because we do not have the systems so we have to look at the best practice in other countries where you have the systems that would allow you to look at the different components of the problem and then look at data collection for those different components, so that when you put it all together you do not feel that you are so satisfied with addressing one component, like we are doing here this afternoon, but you address all the components of this problem.

It was also useful for me in looking at this Bill to look at some of the things that other people have done with a fair degree of success in terms of how they approach these problems. I was just talking about the absolute necessity for enforcement and for the visibility of police officers on the street so that you do not have people feeling that they can appear before a magistrate; have their licence taken away and then the next morning they are on the road like nothing has ever happened; continuing to endanger other persons.

So what they did was to have sobriety checkpoints. I just want to read this aspect because we are going to face this problem down the road and we are going to have to look at tightening this legislation and looking at these issues. It says here:

“Enforcement practices, especially random breath testing or sobriety checkpoints, have been found to have a significant influence on impaired driving. The experience of the Australian states of New South Wales and Victoria provide dramatic examples of the effectiveness of random breath testing... Sobriety checkpoints have also been shown to reduce alcohol-related traffic crashes.”

So this is something that we will definitely have to look at, sobriety checkpoints. As I mentioned before, maybe you want to look at checkpoints which you know at a certain time, at a certain place, that a lot of people who would be driving under the influence would be coming from that particular place, and you might

want to look at enforcing the issue of sobriety checkpoints at those particular areas.

In some of the countries here that have driver licensing laws—

**Madam President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. W. Mark*]

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

**Sen. Dr. J. Kernahan:** Thank you, Madam President. It was interesting—in Australia there is “compulsory blood testing for drivers, cyclists and pedestrians aged 15 or older attending hospital after crash.” The Bill before us does not specifically speak to these groups. They are delineated for cyclists and pedestrians also, attending hospital after a crash.

Some of the other measures—for example, it was interesting to look at Norway and Portugal in terms of how they approach driving licences. A lot of reference was made to the way people get driving licences in this country; the corruption involved in the process and the fact that this could be a factor in the number of road fatalities. We really do not know because we do not have the data to correlate what is happening on the roads with these issues. That is unfortunate and we really need to get cracking on the data. But in Norway it says here:

“A probational license is valid for two years; after which it will automatically be converted into a full driving license. This period cannot be shortened. If the probational license holder causes a serious traffic offence, his or her license is withdrawn, and he or she must pass another theory test and practical test. The probational period is then extended for another two years.”

So they are looking at measures which would eliminate the willy-nilly approach to young people getting licences and going out there and driving under the influence; being aggressive; not being careful of road safety regulations, and so on.

In Portugal, it states:

“A probationary system exists for the first license a candidate obtains.”

It is similar, in that it is valid for two years and it cannot be shortened or extended.

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. KERNAHAN]

*Wednesday, July 04, 2007*

So these are some of the issues that we would have to look at in order to address the problems before us in a holistic manner. I am very happy to be part of this historic occasion today when we are looking at bringing something into law which is long overdue, as so many Senators have expressed, and the intention is to get people driving under the influence off our roads. I cannot help but continue to emphasize that if you have this culture of drinking as socially acceptable; that you have young people who do not have enough choices and options to relax and enjoy themselves, and so on, that you would have this phenomenon of the police not being able to keep up or take all the people driving under the influence off the roads, because too many are coming through; too many are becoming addicts; too many are not able to help themselves.

Therefore, you must have a strong remediation programme where people are helped. Sometimes they cannot help themselves. If you have an addiction you cannot help yourself. So in addition to taking them off the road, to fines, to jail sentences, you must have some programme in which these people must be mandated to participate in order to get rid of this addiction, if you find that this is the problem. Because what is the point of taking them off the street?

Maybe they will drive; but maybe they will not. But if they are going to continue to drink and be under the influence of this addiction you must have a strong remediation programme where people who are found to be alcoholics, addicts, and so on, you afford them the opportunity for treatment and rehabilitation. That has to be a strong component in anything we do because unless you do that you will be spinning top in mud; you are going to be taking them off; putting them in jail and more people are coming through the ranks every single day, especially young people. So this is a serious problem.

We do not have to reinvent the wheel. There is a lot of literature in terms of what people have been able to do in terms of reducing their road fatalities, their road deaths, and most of it is something that we can implement. We look at it; we adapt it to our conditions here and we implement. In the very early part of this debate the Americans spelt out a whole number of issues that we have to look at in terms of using helmets, seat belts. Even seat belts, our policemen are not vigilant enough in enforcing the use of seat belts by passengers.

I am sure you would have seen this on the road and would have been horrified, where young children—you are going to school on mornings and you see cars in front and at the side of you, and you have young children four or five years standing in the front seat of cars. There are women with babies in their arms in the front seat of cars. In advanced countries that is against the law. You are not

allowed to do that. You are immediately pulled off the road by a police officer if you have children standing up in the front seat of cars or without seat belts. All children must be in the back; women with children must be in the back seat, properly strapped in, and so on.

These are basic things that we do not enforce here. We have the law on the books but we do not enforce and we are not serious about it, so people move with a sense of impunity and sometimes ignorance, because some of them apparently do not know how much they are endangering their children's lives when they do that. It seems to be a nice, big happy family with the children hanging out the window, looking out. It is so dangerous and so prevalent in our society.

So there are a whole host of things that immediately we can enforce; we can insist; we can launch the public awareness campaign. People must understand the dangers to which they expose their children and babies when they do these things; when they have children riding in the back of station wagons; when you have people riding in open trays. That is a fact of life; that is a cultural reality in our country. It is normal for people carrying workmen, and so on, to have them in the backs of open trays, in their trucks. The police do not pull them off the road; that is normal; everybody takes it for granted.

So in addition to what we have done here this afternoon, there are a whole host of things that we can do immediately to decrease the horrible number of road accidents and I hope that the Government takes this into consideration and actually begin to put these measures in place.

I thank you, Madam President. [*Desk thumping*]

**Sen. Prof. Kenneth Ramchand:** Madam President, first of all, I want to congratulate the Government on bringing this Bill. It is long overdue. I remember in the 1980s Sen. Dr. Michael Beaubrun was agitating about breathalyser legislation. So it is has been over 30 years since we have been attempting to bring in a bill like this.

I think the Minister is very aware that dealing with people who are driving under the influence is not likely to solve all the problems we have with traffic and driving, and I am sure that there are many more amendments that need to be made to the Motor Vehicles and Road Traffic Act if we are going to solve the critical problem that now faces us.

People have talked about it but I have my own little list. I think we need a lot of traffic light regulation. I think people should be educated that red lights do not mean "hurry up". Red lights mean "stop". Regularly, I get a green light and I

*Motor Vehicles (Amdt.) Bill*  
[SEN. PROF. RAMCHAND]

*Wednesday, July 04, 2007*

wait. Three cars break the red light habitually and I have to stay there and take the jamming because people behind me are blowing their horns as if it is a wedding and want to know if I bought my licence. Something has to be done about people breaking red lights. I do not know if you could have cameras mounted there that would catch them and they will just get their ticket in the post.

There is another traffic light offence that is very annoying and could cause accidents—because when I get vexed up about it, I could probably do a bad drive later down the road—and that offence is the embarking and disembarking of passengers at traffic lights. It seems to be a favourite place.

The third thing is a pedestrian offence; people standing up by traffic lights waiting for maxi-taxis, and when you come out of a side road, they block your vision; you cannot see what is coming for you to emerge. So those are some traffic light offences that I feel we need to legislate against—or enforce. It seems that our problem is enforcement.

There is another offence. Our roads are very narrow and we have a lot of traffic, and Town and Country Planning is allowing people to build houses without requiring that they have a place to garage their car. So if Town and Country Planning wants to help with the traffic problem, there should be some kind of enforcement of a rule—I do not know if the rule exists—that if you want permission to build a house, your plans have to show that you have a place to garage your car. Because on all the back roads now, people are parking their cars between 4.00 p.m. and 8.00 a.m. causing traffic jams. It is a serious problem. I do not know how we are going to solve it, but that is contributing to the problem of traffic.

Of course, speed; I really wish there could be an enforcement of speeding regulations. I am tired of people “cussing” me because I am driving within the speed limit. When you drive on the left lane, you have trucks and buses and loaded vehicles travelling at 15 miles an hour. Oh gosh, I want to travel slow, but not 15 miles per hour.

Something has to be done about pedestrians. Pedestrians think that once there is a crossing, that gives them right-of-way. They do not look to see if there is a red or green light, or whatever. They see that zebra and they cross. And somebody has told school children that if they walk arm in arm, forming the width of a car, they can go on the road and pretend they are a motor car and we have to wait for a safe time to overtake them. Again and again you see bands of school children walking car-width on the road as if they were a car, and you cannot tell them anything because they will disrespect you.

One of the interesting things that Sen. Dr. Gopeesingh's document points out is that in Russia, in 29 per cent of all traffic accidents, drunk pedestrians are to blame. Imagine these fellows with their vodka, stumbling on the ice. But we have sober pedestrians who are causing accidents.

Dangerous driving; I wish we had more patrols or more ways of catching. If I were told that if you see persons driving dangerously, report them and we would charge them, I would do it, but now I cannot prove the case. If there were some legislation that could say that if you have a digital camera and you take a photograph of a person doing dangerous driving or illegal parking or being on the priority when they should not be there, that on the basis of that photograph the person could be charged, I would do it, because all of us ought to be one another's keeper and we all have to be watchman over one another. If we cannot get more patrols, some kind of proctoring of citizens should be done.

As for the driving age, I am absolutely convinced we should go back to age 21 unless the person is in permanent employment, so he cannot say he has to go to work and he cannot get transportation; he has to drive. So if you are an unemployed person, you have to wait until you are 21 to get a licence

#### PROCEDURAL MOTION

**The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith):** Madam President, as surprised as I am to do this—I never thought we would come to this—I beg to move that the Senate continue its sitting until the completion of the debate on this Bill.

*Question put and agreed to.*

#### MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL

**Sen. Prof. K. Ramchand:** As to the Bill itself, I am just going to speak briefly and just give an opinion. I am of the opinion that the penalty for the first offence should be more severe.

**Hon. Imbert:** I thank the Senator for giving way. The point that Sen. Ali had raised was very relevant and there is an amendment circulated which will address that issue.

**Sen. Prof. K. Ramchand:** Thank you. Although I am sympathetic to the view that we must take account of the time between convictions, I think we have to be streetwise enough to know that when you catch the person the second time, that is

*Motor Vehicles (Amdt.) Bill*  
[SEN. PROF. RAMCHAND]

*Wednesday, July 04, 2007*

not the second time that they have done it. It just means that you have only now caught them. So I would not allow the time period between convictions to carry as much weight as the figures, and you would have to bear in mind that this was not the second time.

I just want to be a little clearer about the offence that we are dealing with. Section 70A(1) says:

“No person shall drive or attempt to drive...”

What is “attempt to drive”? Is “attempt to drive” walking towards my vehicle? Is attempting to drive sitting behind the steering wheel and turning the ignition?

**Hon. Imbert:** Yes.

**Sen. Prof. K. Ramchand:** It continues:

“or be in charge of a motor vehicle on a road or other public place if he has consumed alcohol in such a quantity that the proportion thereof in his breath or blood exceeds the prescribed limit.”

So the offence we are dealing with is having an excess amount of alcohol in your breath or in your blood. That is the offence—in your breath.

**Hon. Imbert:** That is how we measure it, what is in your blood.

**Sen. Prof. K. Ramchand:** Not “on your breath”, “in your breath”. That is correct. We have dangerous driving already and we have drunken driving already. I do not know how people enforce drunken driving—how we can prove drunken driving, unless you say that drunken driving is a function of dangerous driving.

**Hon. Imbert:** Again, I thank the Senator for giving way. The point is, there was no mechanism in the legislation previously to measure the extent to which somebody would have been driving under the influence. That is what this is curing; that defect in the law. It was very amorphous before. It is just an offence there but it was almost impossible to detect it and to measure it, and so on.

**Sen. Prof. K. Ramchand:** I know that; I am just being rhetorical to say that the value of the legislation is that it allows us to deal with drunken driving. Thank you very much. But that being so, when you look at section 70B(1), how does the fact that I have excess alcohol in my breath or in my blood, manifest itself? What is the “reasonable cause” that the constable in 70B(1) can allege? Is the reasonable cause dangerous or reckless driving?

**Hon. Imbert:** There are a number of other sobriety tests that are used in other jurisdictions. One would look at the demeanor of the person; whether you can



smell alcohol on the breath; whether their speech is slurred; whether they are able to walk in a straight line, and you combine all of these factors; and you may have seen the person also bobbing and weaving in traffic. So it is a series of things. You may have seen on television where they ask the person to stand on one foot; to touch their nose; walk a straight line. It is a series of things that the constable would use to come to the conclusion that the person may be under the influence.

**Sen. Prof. K. Ramchand:** The question is, if I am driving along in my motor car—now, I know that on the one or two occasions when I have been to something and I have had more than two drinks, I am more fastidious in my driving than normal, because I would want to make sure I am walking straight and I am driving straight and I stop quite deliberately at the traffic lights; I move off slowly and I corner properly. *[Interruption]* No. What I am saying is that a person can have the alcohol in his breath or in his blood but his driving does not show it, unless you are a smart man and say, “He driving too good, boy; something suspicious about that.” *[Laughter]*

**Hon. Imbert:** I thank the Senator again for giving way. If a constable is observing somebody driving and there is no obvious indication; the constable is on the side watching a car being driven and if there is no obvious indication that the person is drunk, well he would hardly stop that vehicle. It is the combination of the reckless driving and the other things that will come together.

**Sen. Prof. K. Ramchand:** So that I do not know, then, whether the way it is put here might not lead to abuse. Should the legislation not be more explicit about what are the “reasonable causes”? Would that be in the regulations?

**Madam President:** Do you want the Minister to answer you now?

**Hon. Imbert:** I will answer in the winding up.

**Sen. Prof. K. Ramchand:** Okay, because what I have to say again does not really depend on an answer to that; it is just a question.

**Sen. Dr. Saith:** Rhetorical.

**Sen. Prof. K. Ramchand:** No, it is not rhetorical this time. I have another instance that worries. If there is a function at President’s House, and two police decide, “Aha, we will catch those Senators today”, and they come and line up outside President’s House, and as you drive out, before you even drive badly, they hold you. Is that okay?

**Hon. Imbert:** Walk with your driver.

**Sen. Prof. K. Ramchand:** Have I given “reasonable cause”? They are just making an assumption that people who go to this function at President’s House would have taken more than two drinks.

**Sen. Seetahal SC:** They would have to say what the “reasonable cause” is.

**Sen. Prof. K. Ramchand:** They would have to say what the “reasonable cause” is. But if they stop me coming out of the President’s House, although I have not driven badly, and then they test me and they find the alcohol in my breath and in my blood, what is my position?

**Hon. Senator:** They charge you. They have a right to charge you.

**Sen. Dr. Mc Kenzie:** Call a taxi.

**Sen. Prof. K. Ramchand:** But you see, I do not like having to ask those questions. I want a piece of legislation that makes it clear that even if I am under the influence but not driving dangerously, I still feel that I could be picked up, and that is why I support Sen. Dr. Gopeesingh and Sen. Dr. Kernahan in their argument about random testing.

**Sen. Dr. Mc Kenzie:** But you are contradicting yourself.

**Sen. Prof. K. Ramchand:** I am not.

**Sen. Dr. Mc Kenzie:** Yes, to me.

**Sen. Prof. K. Ramchand:** What I am saying is that I think that random testing is an important complement to this legislation. Now lining up outside the President’s House saying “Ah go catch the Senators”, is not random testing. In the document that I had borrowed from Sen. Dr. Gopeesingh, there are two things about random testing, as part of legislation:

“The perception that random screening is truly random and ubiquitous...”

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

I am giving you the case of somebody who has alcohol in his breath and blood and at the time that the policeman sees him, he may not have caused an accident, but he has the potential to cause an accident. That is why I believe that random testing is a necessary complement to the present legislation. Those are my comments and questions.

I commend the Minister not only for the legislation, but also his opening thoughts about cellphones. I do not think that we need to do any survey, study or examination. I have been driving behind a vehicle while using my cellphone and I

have had to stop because the driver slowed down and stopped suddenly. I did not crash. I have been at a traffic light while using my cellphone; the light changed on me; I did not move off fast enough and everybody behind me was vexed. I have been dialing a number and when I raised my head, the scene in front of me had changed and when I looked in my rear view mirror, the scene behind me changed. All of us who use cellphones while driving—I do not think that this is a confession. [*Interruption*] I am not. My reflexes are good. It is only good reflexes that saved me. We do not have to wait for the legislation to deal with that. That is dangerous driving, as Sen. Seetahal SC has pointed out. We need to let people know that using the cellphone while driving is careless driving and they could be charged for it.

I have one other thing about alcohol. In some countries you are not allowed to have a bottle of alcohol in your vehicle. I do not know if that will be included later. I was going to make a distinction between an opened bottle of alcohol and a sealed bottle in my trunk. Similarly, if we tell people that they cannot use the cellphone while driving—I may want to have my cellphone in my car in case I have to pull aside and make a call. When the cellphone legislation comes, I hope that we would find a way to allow people to have their cellphones, maybe, in the boot of their cars. The full, unopened bottle of alcohol in my boot should not get me in trouble because I have to go to the supermarket to buy it.

The cellphone in my pocket or beside me on the passenger seat tends to be an indication that I am ready and willing to use it while driving. They have to see me using it. I want them to put temptation out of the way.

With those scattered comments, thank you.

**Sen. Dr. Glenn Ramadhar-Singh:** Madam President, thank you for the opportunity to contribute to this Bill of grave national importance. It is no secret that our roads have been met with horrifying, ugly and disastrous accidents. Road safety is now a global issue as the United Nations observed its first Global Safety Road Week on April 23 to 29, 2007, in an attempt to create an awareness of all that we have spoken about today, such as the social impact of road traffic accidents and injuries; to promote measures as wearing helmets; using seat belts; preventing drunk driving; speeding and most importantly, improving infrastructure.

In Trinidad and Tobago we heard much about the road fatalities. Last year, there were 201. In 2005, there were 28,000 reported motor collisions. When you do not have a fatality, there are many instances when there are serious injuries; broken bones; disability and impairment. The whole issue of road accidents is a

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. RAMADHAR-SINGH]

*Wednesday, July 04, 2007*

national issue that must be dealt with in a holistic manner. We hope that this Bill is part of that holistic approach to deal with road traffic accidents. Although we have fatalities we want to prevent some of the accidents that cause dismemberment; broken bones; trauma and lifelong injuries to human beings.

The use of alcohol as evidenced in all the contributions today, account for some of the gruesome and heartrending accidents that we see. The statistics show this figure around 30 per cent. In the other 70 per cent, there is a wide range of factors that need to be analyzed, such as the condition of our roads and the quality of the paving. Many drivers have indicated that where the cars pass commonly, there is a wedge and sometimes they can go off; there are also dangerous potholes and malfunctioning traffic lights.

**Madam President:** Come to the Bill.

**Sen. Dr. G. Ramadhar-Singh:** I am making the point that this Bill is part of the holistic approach that we have to take. Road fatalities can decrease, but strategies need to be crafted by the Government if it has the political will to deal with this issue. It seems that the strategies between the Ministry of National Security and the Ministry of Works and Transport do not exist or are ineffective. The loss of life on the nation's roads receives no priority from the Government. If we look at the figures for quarter of this year, it is 104. It seems sometimes as if we have a knee-jerk reaction in putting out measures and not a holistic view.

Last year in December, there was a terrible accident at Piarco where two sisters were killed and there were graphic pictures on the Internet and some of the newspapers. At that time there was the normal public outcry and a response in typical knee-jerk style was given by the Ministry of Works and Transport. They announced a \$1.2 million Safety Awareness Programme just a few days later. What has happened to that? Was it done? Was it implemented? If so, how effective was it? Apart from the breathalyser, what are some of the other qualities that the Government has in the area of decreasing road traffic accidents? Is there any strategy by the Government to collect statistic on where most of the accidents happen? As Sen. Dr. Gopeesingh mentioned, there is a problem with part of the highway approaching Gasparillo.

Have studies been done to determine how many accidents take place; what were the main causes; what types of vehicles and what hours of day or night these accidents took place? Last year, 201 road fatalities were reported. In 2005, the figure was 207. These figures represent a 69 per cent increase from 1997, a 10 year period, in which year there were 120 road fatalities. What has caused this

increase? There is an obvious correlation between road fatalities; road accidents and the growth of the economy. Increasing national income means that citizens, companies and the Government have more money and can purchase more vehicles.

Given this reality that we have had a phenomenal increase in the economy over a 10 year period and 69 per cent in road fatalities, how has policing improved? How has the allocation of resources improved in those 10 years? Not much. Did the police use data to allocate resources? Do the police know the areas with the highest road fatality density? Do they use GPS to tag accidents? If they have the data, why do they not put the police at the critical points of the highway or other parts of the nation's roads where these accidents take place? Data from the *Road Traffic Bulletin Report* shows that 59 per cent of fatal accidents occur between 6.00 p.m. and 6.00 a.m. Does anyone know if anybody got a speeding ticket in the night? The police do not seem to be concerned with speeding at night. In addition, 56 per cent of all fatal accidents occur on Friday, Saturday and Sunday. Should this not mean that the police should have a higher presence?

**Madam President:** I have allowed everybody a little leeway, but it is kind of going too much. You are repeating much of what has been said and you have gone off the Bill. Those things are not what we are dealing with today. We will come to that another day. Come to the Bill, please.

**Sen. Dr. G. Ramadhar-Singh:** Thank you, Madam President. I am sure that you understand the point that I am making. I am giving the statistics; people made the point but they did not have the statistics from the traffic bulletin to substantiate what they said. They said that most of the accidents happen in the night which is a glib statement without actual data. It is the experience of those from the south and the east that you can drive from Sangre Grande or San Fernando to Grand Bazaar and not see police on the highway.

We are not getting to where we should be. You cannot come with one piece of legislation as the magic cure for road traffic accidents. Many studies have shown us and Senators have quoted from them that planning road infrastructure is a major concern. Sen. Dr. Gopeesingh pointed to that particular road. We must not only build new roads with this type of information and technology, but we must also correct the roads that continue to be a source of road accidents. [*Interruption*] Seventy per cent of the accidents are not related to drunk driving. It opens the debate.

If you were to drive along the highway, in years gone by there were many warning signs about the speed limit; giving tips to people, sending a type of subliminal message to drivers to slow down and be careful. Today, we are not

*Motor Vehicles (Amdt.) Bill*  
[SEN. DR. RAMADHAR-SINGH]

*Wednesday, July 04, 2007*

seeing any of those signs. Where have all these signs gone? What is the role of the insurance companies which have to pay out money when there are accidents? They have a vested interest in decreasing road traffic accidents. Has the Government seen it necessary to partner with the insurance industry to bring about an awareness programme, in terms of road traffic accidents to get private sector involvement to help sensitize people along the roads with signage?

We are not asking the Government to pump resources into putting up all these signs. There are industries that have a vested interest and could be approached. Maybe, there is a communication problem with the Government and the private sector as I see in this article dated Friday, June 29. There are communication problems between the Government and the private sector. The single most strategic disconnect between government programmes and the private sector is communication or the lack of it.

**Madam President:** Senator, come on.

**Sen. Dr. G. Ramadhar-Singh:** I am going to deal with the area of enforcing the Bill. How are we going to enforce the measures of this Bill? Enforcement is definitely a problem. If you were to imbibe alcohol; you reach a point where you know you would become a victim of the breathalyser test; you decide that you cannot make it any more; you find yourself at Diego Martin at 2.00 a.m. and have to get to Chaguanas, what are your options? You may be in an unfortunate situation where your friends left you. In this country, can you call a taxi? Is that a regulated industry? Are you sure that you are not calling a bandit? When we put the legislation in place and impede people who have a culture as some people mentioned, of hanging out in nightclubs or bars, we must put the necessary legislation in place to regulate the industry.

Do you know what has happened to that industry because of the lack of enforcement? There was a situation where cars had to be inspected every year. They said do not worry to go to the Licensing Authority; pay at the pump; go to a private garage in your community and go over. The laws were good but because of lack of enforcement under this Government, the taxi cars are the most dangerous cars on the road because they do not have to go over. Nobody updates that sticker. That is a serious concern of the Government. This idea of the breathalyser Bill is one that we support. [*Desk thumping*] We are worried about the enforcement and success of the measures that were agreed to so painfully at the committee stage.

**Madam President:** Senator, you are repeating.

**Sen. Dr. G. Ramadhar-Singh:** I am coming to a point. I believe that because of the state of the police force and the numerous problems that we are besieged with, I am wondering if the police service can implement this law. If we are honest with ourselves we are putting a law in place—we do not have police on surveillance. Throughout the six years, this Government has failed to adequately keep the police mobile. There is no presence of the police on the highway. How are we going to implement this?

I recommend that for the bad roads they put this in a special purpose state company. This is a life and death issue. This issue of road safety is critical and important not only for the persons who have to be disciplined, but also the normal law-abiding drivers. Just as they consider flooding and bad roads as urgent national attention, they should put this measure in the hands of a special purpose state company, if they care about the citizens of this country, otherwise we would have a serious problem with implementation.

I advocate that while we agree that the ad hoc or arbitrary stopping of vehicles has been shown to be the most successful method in studies, we must also understand that it carries a serious inconvenience to the normal law-abiding citizens. One in every 10 cars could be stopped in a particular procession and you may be leading a life that you hate alcohol; you are taking out your family and you may be late. We must understand that when we propose things, that there is a burden and inconvenience to the citizens. We must balance that with the approach of going to the watering holes; that is the areas where the people are likely to be participating in alcoholic drinks and you would find persons who may contribute to road fatalities. We must also understand the culture of alcohol participation in Trinidad and Tobago is different from all over the world. We have many people who drink in rum shops in rural communities and then go on to functions along the highways.

I recommend to the Minister that at the local government level, the corporations approve the licences together with the judicial system for the rum shops. We design a system where there would be localized policing, utilizing the district and regional corporations so that you would know in which areas more people participate and are prone to go on the road in that state. That would be more effective. If you put the police on the highway and these people are in the rural communities you would not make an impact.

As I end, I hope that this legislation does not fall by the wayside as so many good pieces of legislation. We should not pass legislation if we do not have a plan to deal with things in a holistic way and the resources to commit to the enforcement of these laws.

Thank you.

**Sen. Dana Seetahal SC:** Madam President, let me say at the outset that I strongly object to any suggestion of random stopping for sampling and testing of breath. This is completely different from stopping people in a roadblock. This is leading to an invasion of privacy. It is my opinion that it will be a further constitutional breach if without reasonable cause, persons were stopped and subjected randomly to breath test or breath analysis if they refuse. That is one thing I want to make clear.

Two years ago I was present at court during the trial of someone in Texas who was charged for driving while under the influence. That person left his home to go to a bar to purchase liquor. When he came out the bar he reversed; hit a vehicle and a wall and went home. A report was made; police went to his home and there he was drinking the liquor that he had purchased. The friends said that he had done nothing like that and the person may have hit his or her vehicle. They did the test to see how much he had and it showed that the amount of liquor he had consumed supposedly at that time could not have been the amount that the test showed. He was properly convicted for drinking unless he took a whole bottle and poured it, which there was no evidence that he did. They dealt on what was reasonable in the circumstances and he was jailed for 12 months.

I mention that story to show that in most states in the United States, DUI offences as they are popularly known are taken very seriously. One may recall reading stories where movie stars have been charged with offences like that and subjected to imprisonment, as well as politicians. In the United States it could be the death politically, of a politician if charged and convicted for an offence like that. That is an indication of how serious it is, unlike Trinidad and Tobago, where there are few charges for the existing offence of driving when under the influence under section 70 of the current law.

The reason for this is the proof. You must say that the person smelt strongly of alcohol; his speech was slurred and so on. The person could say that his or her speech was slurred because he or she was tired and the police officer is making up that. As stated in the Bill, the purpose of this legislation is to require or enable police officers to demand specimens of breath from persons and in certain instances, specimens of blood. That is all the Bill is about apart from increasing penalties and possible refusal to give these specimens to create new offences.

We need to understand that you have two kinds of tests, a breath test and a breath analysis test. You will be stopped and required to take a breath test if there is reasonable cause to suspect that you have been driving a vehicle whilst under



the influence or if an accident occurs. "Reasonable cause" is a term defined in many cases. It will not be arbitrary. The police officer must lay some groundwork or evidential basis. If that is so, this law that we are going to pass presumably, requires that the suspect provide a specimen. If he does not provide that specimen he is required under the law to subject himself to a breath analysis which is a different test.

For those of us who wish to know the difference, it is in the definition section of the Bill which is strangely enough, the last section, unlike normal legislation. The usual practice is to put the definition at the start. I am sure that the drafters had some reason for putting that definition. Breath analysis is a quantitative measuring of the proportion of alcohol. That is the second test. The breath test is a means of obtaining an indication of the proportion of alcohol. The first one is an indication. If it shows that you are above a certain limit, they would require you to subject yourself to a more measured test which is the breath analysis. If for some reason you are unable to provide that, you would be required to consent to a blood test. If you do not consent to the blood test, then it is an offence.

**7.00 p.m.**

Madam President, there are two points I wish to make on the provisions of the law that is being proposed. It gives the police certain powers of arrest as the Minister indicated. There is a power of arrest under section 75, without a warrant, if a person is committing an offence. That is in the proposed 70A(5):

"Any constable in uniform or on showing his authority as a member of the Police Service may arrest without a warrant, any person committing an offence under this section."

That is driving where you seem to be under the influence.

I would like to ask the Minister why that provision is there. Under the Summary Courts Act, there is existing law, section 105, which provides that any person found committing a summary offence may be arrested without a warrant by a police officer. It does not have to be a police officer in uniform on showing his authority as a member. There already is that power, so this additional requirement is redundant. Some people may say let us be extra careful, but there is no point about extra care. We have too many pieces of legislation emanating from this Parliament that are repetitive, redundant and often confusing. It is important, in my view to point that out.

*Motor Vehicles (Amdt.) Bill*  
[SEN. SEETAHAL SC]

*Wednesday, July 04, 2007*

There are other provisions in the Bill which enable arrest, but on a careful perusal of these I realize that arrest in those circumstances is to facilitate the breath test being taken in one instance and, in another instance, the breath analysis. So if the person refuses, he can be arrested and must give the samples. It is really of no serious moment. It is really to achieve the purposes of the law.

Madam President, there are really three new offences created under this Bill. We already have the DUI offence under section 70. What we will now have is an offence of driving while blood alcohol level exceeds the prescribed limit. We will have another offence of wilful refusal to take a breath analysis, together with wilful alteration of the alcohol concentration. For example, that is where you take liquor or some other thing in order to disguise it. The fourth offence is refusal to provide a blood specimen.

These new offences really deal, in the last three cases, with wilful refusal. I see that there are now proposals circulated to increase the original penalties in the draft Bill to some wider or greater penalties. My point is that all of these, if passed, will be in serious inconsistency with the existing law. The existing law, at section 71, provides that a person who drives dangerously or in a speed or manner dangerous to the public, and recklessly, which is essentially dangerous driving, is only liable to a fine of \$2,000 and to imprisonment for six months. That is section 71(1).

**Hon. Imbert:** Will the Senator give way? Thank you, Sen. Seetahal SC for giving way. I was under a similar misapprehension. There was an amendment to the Motor Vehicles and Road Traffic Act, No. 22 of 2000, which was assented to on June 30, 2000 and that particular section, among others, including the one that Sen. Ali referred to was amended as follows:

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

Are you referring to this amendment Act?

**Sen. D. Seetahal SC:** No, I am not.

**Hon. Imbert:** Because there was an amendment and the penalties were significantly upgraded in the year 2000 and that led to the list of amendments. In my winding up, I intend to deal at length with the amendment made in 2000. We have sought, in the list of amendments circulated, to make the penalties consistent with what was done in the year 2000.

**Sen. D. Seetahal SC:** I had asked to have the new amendments brought in. Although we are told that the law is updated, when we ask, we do not get it here in Parliament. That is why I say that having a hard copy is very important. But I am not dealing with causing death by dangerous driving, which is an entirely different offence. I am dealing with the simple offence of dangerous driving.

**Hon. Imbert:** I did not intend to go through each one, but:

“The person who drives a motor vehicle dangerously on a road commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for five years.”

There are a series of amendments.

**Sen. D. Seetahal SC:** Thank you very much. That is the one I was speaking about. That is the one that was provided for me under the law, so I appreciate that very much. That is useful to know. That would be the first point I was making.

Now in the current law, as you have provided, that part is consistent, but moving back to section 70, there is one inconsistency and I hope that the Minister would point this out to me in his updated laws, which unfortunately we do not have. The inconsistency is that under section 70(2) as exists, if you have one conviction for driving whilst under the influence, you shall be disqualified for a period of 12 months. That is the proposal that you are going to withdraw. What you are replacing it with is a person convicted of two consecutive offences. It is not right. The proposal as we have it here is:

Section 70 of the Act is amended by repealing subsection (2). Subsection (2), Madam President, currently provides that if you have one conviction for DUI, you will be disqualified for 12 months. What is being suggested as a replacement is:

“A person convicted of—

(a) two consecutive offences ... shall unless ... special reasons...”

be disqualified for a period of three years. That is two.

**Hon. Imbert:** Perhaps I had better get copies of this circulated. Let me read what section 70 says now. They deleted what was there before and replaced it with the following:

“...eight thousand dollars and imprisonment for three years.”

That is for the first offence:

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

“...and on any subsequent conviction to a fine of fifteen thousand dollars, imprisonment for five years and...”

With respect to disqualification, that was changed from 12 months to three years in the 2000—

**Sen. D. Seetahal SC:** For one offence. That is where?

**Hon. Imbert:** In subsection (2).

**Sen. D. Seetahal SC:** That subsection (2) is now being repealed. That is my point.

**Hon. Imbert:** In the subsection (2) that now exists, before we pass this, you will be disqualified for three years, not 12 months.

**Sen. D. Seetahal SC:** I think something is being missed. Under the old law, there was a provision for disqualification for one offence. Could the Minister tell me—for one conviction? Now under the replacement that you are proposing, you must have two consecutive offences. I have the original section 72(2), which talks about a person convicted for an offence under this section being disqualified for a period—it used to be 12 months, but you are telling me it was raised to three years. That is for one. At some point that was amended and raised. Through you, Madam President, is that not what you just said?

**Hon. Imbert:** I am asking for the older version. My understanding is that the disqualification relates to two offences, but I am going to clear that up.

**Sen. D. Seetahal SC:** I am pointing out that it was always the law before all of this. When you had one conviction, you were liable to be disqualified for a period of 12 months. If that was changed in 2000, why is it for one offence of DUI, which is a very serious offence, you have no period of disqualification proposed and you jump when you have two to three years? In the law that existed up to 2000, which was amended, as I understand it, to increase the penalty—that was the law; a person convicted of an offence was liable to be disqualified for 12 months. That is something we need to be concerned with.

While we are talking about all these things, we need to look at, unless the Minister tells me that this has changed, section 82. If the Minister can assure me that if you are convicted for one offence, you are liable to be disqualified, I would like to hear that now. If it is not so, then I would like to make an amendment; unless you are not sure.

**Hon. Imbert:** We can deal with that at the committee stage, at which time I would have all the information the Senator requires. I wish to point out that the Bill before the Senate poses a custodial sentence of three years on the first conviction.

**Sen. D. Seetahal SC:** Which subsection is the Minister speaking about? Could he tell us? Section 72A?

**Hon. Imbert:** 70A, first offence.

**Sen. D. Seetahal SC:** Is it 70(2)a?

**Mr. Imbert:** 70A.

**Sen. D. Seetahal SC:** There is no proposal. Anyway, we will deal with that at committee stage rather than wasting time.

Madam President, through you, I also wish to point out that there is a section 82 in this Act which enables any person who is disqualified for a period of anything exceeding six months to come before a court after six months and apply for that penalty to be removed. This is at 82(2). He may apply to the court to have:

“After the expiration of six months from the date of disqualification, he shall apply to the court by which he is disqualified to remove the disqualification.”

When we talk about disqualification for 20 years and for life, remember that often after six months you come before the court and they can just reinstate your driving permit. That is a point that needs to be made and must be clear when we are drafting these Bills, if we are seeking to achieve all sorts of presumably serious sentences.

Madam President, I wish to make one other point before I take my seat. Yesterday, in the Court of Appeal, a person who was convicted of driving under the influence came up before the court. He had been convicted and sentenced. Since the last time the matter came up, he appealed his sentence and he had, in his mitigation, said that he had gone to Alcoholics Anonymous (AA). The court can take that into account now in deciding the penalty to impose. If the legislation says 12 months or three years, the court would take into account mitigating factors.

The court adjourned the case to see if he would make one year in the AA. If he made one year, they would order a Probation Officer’s Report—a report all courts have power to order—to decide whether or not this person was one to be sent back to the streets of the country. Now, to my mind, that demonstrates what is missing and what other Senators have said before, the treatment aspect. The court,

*Motor Vehicles (Amdt.) Bill*  
[SEN. SEETAHAL SC]

*Wednesday, July 04, 2007*

in an innovative way, in the plea of mitigation by counsel who was arguing against a custodial sentence and against certain things, the counsel brought, as he is entitled, recommendations and evidence that the person is into rehab. That is not in the law, but it is something in the general mitigation aspect you can take into account.

This showed that he was going to AA and they brought someone from AA. The point is that ought to be included in the Act in the same way that I had proposed before, that for drug offences, when you are dealing with users, there is a drug court that is properly a treatment court where, if persons subject themselves to treatment and are successful over a prolonged period, any conviction would be struck off. It is in the same vein. Rather than have our courts try some sort of innovative way after the person pleads guilty, and only after, in mitigation, to have the person get this treatment, we ought to include it in the legislation.

The legislation is all well and good because it provides for police intervention at a stage we did not have before in order to enforce the DUI law, but it is just one aspect. Of course, the Government can say that eventually they would look at it, but there are so many things we say we would look at eventually, but we never get around to them. It is about time that, whether it is in an overall amendment or maybe some general penalty sentencing law, we take these things into account. That would really make all this legislation that we are promoting more meaningful if we are seeking to have the society improve; if we are seeking to have citizens get better. Rather than having the stick, the carrot might be a useful way of dealing with it. By carrot, I mean having the offenders subjecting themselves to treatment.

Thank you very much, Madam President.

**Sen. Basharat Ali:** Madam President, I rise to support the Bill before us which will bring into effect what is really long overdue legislation.

I would try to avoid repetition because we are near the end of the line in this debate, but I cannot go on without commending the chairman and members of the joint select committee for a job well done. That is why I said earlier when I was writing this—and I repeat it now—that I am so very pleased with the expertise provided to the committee in the person of Prof. Lexley Pinto-Pereira of UWI, Dr. Sandra Reid, consultant psychiatrist, and of course, the Arrive Alive team. They helped to put the whole subject of alcohol impairment of drivers and the mechanism of alcohol in the blood stream into proper perspective.

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

I have read this report very thoroughly and I have to say that I enjoyed reading it because it was, to me, like reading the proceedings of a scientific symposium. I recommend that anybody who would like to learn about alcohol and its effects on the body and the mind read it.

I extend thanks to the verbatim reporters because most of this I noted was from the verbatim notes and they did an excellent job of it. I wish also to thank the Parliamentary Clerk, Mrs. Shaarda Maharaj, who we all know is very efficient.

Mr. Vice-President, there is no doubt about the incidents of road carnage as everybody calls it now. The half year figure for fatalities in this country was 124, up by 15 for that same period last year. It seems that they are going competition with murders which, at the end of June in the half year period, was at 147. It is not a good situation. Murders are coming down a little, but road fatalities are going up. They may converge at some time, if we do not stop it.

Many causes and solutions have been advanced for the road carnage by virtually everybody. While I was doing preparation last Saturday, June 30, for this debate, I happened to see in two daily newspapers, articles about the road problem. One is a letter in the *Express*; it was the letter of the day and the heading is: "Carnage blame game a dead-end". Let me read the first paragraph. Mr. R. Beddoe says:

"It never ceases to amaze me, the way we Trinidadians always find a way of redirecting blame for our errors."

The writer goes on to give examples of governments blaming previous politicians, parents blaming teachers, husbands blaming wives; the Zen incident, right through it goes to the barriers in the Churchill-Roosevelt Highway being blamed for the accidents there. He goes on in that vein.

To quote again one paragraph, he says:

"The only way to reduce the road carnage is to simply enforce the already existing laws."

He had a message for the Minister of Works and Transport. He said he should:

"..stop blaming alcohol, and pass a three-strike law that will remove all third time offenders from our roadways permanently; first offence \$2,500, second offence \$5,000 and a six-month suspended licence; third offence \$10,000 and a lifetime ban; ensure that heavy-T vehicles have a lower speed limit than

*Motor Vehicles and (Amdt.) Bill*  
[SEN. ALI]

*Wednesday, July 04, 2007*

light vehicles, and to create a balance, restructure the speed limit to 60 mph for light vehicles and 45 mph for heavy-T vehicles; note this should be done only for our highways.”

In his final paragraph, he said:

“To the COP (not the party) and all other relevant authorities I say, more vigilance is needed to curb the blatant lawlessness on our roads; time to send our Highway Patrols, increase the Licensing officers’ presence; hope you get the message.”

On the same page, under letters, there is one snippet, which reads: “Our plea to Paul”. This is from C. Peters via email.

“The Police Commissioner Trevor Paul is constantly appealing to the driving public to exercise more care when using our highways.

Well, I think it is time that the driving public starts appealing to the Commissioner to put more police on our highways to help avoid those fatal accidents.”

These are from people who write to the *Express* to express their views.

On the same day, the centre stage letter in the *Guardian*, written by Michael Coryat out of Cascade is, “Road sense the answer to carnage”. I will read two paragraphs:

“Road sense takes its power from the kind of critical thinking and thought processes a motorist must always have at his/her command, and must practice (sic) as a matter of urgency and personal safety.”

I will not read the rest, but I will read the penultimate paragraph, which says:

“Traffic on the road is all of us who are on the road at that time. People who consider the values of road sense are always aware of their own surroundings and the current traffic density, and so avoid making the kinds of daredevil moves that only cause grief, even if small-scale.”

On the same page of the *Guardian* is an article by Jackson Patrovani, the heading is “Change mindset about road safety”. I will not read this one to any length, but he spoke of alcohol and of a Mr. Waithe of Total Convenience Management, and said:

“He insisted, though, that parents should avail themselves of a breathalyser to test their children, loved ones and friends as there is a direct correlation



between alcohol consumption and accidents caused by excessive speeding and/or reckless driving.”

Those are what appeared in our newspapers a few days ago, June 30.

In the same vein, within the proceedings of the joint select committee, Arrive Alive spoke and they said that recklessness, alcohol and speed are mainly responsible for road carnage. Everybody speaks of road carnage. We have become a lawless society and some members of our society believe they are above the law, particularly those with high-powered cars and who want to zoom past you as if they own the road. Courtesy is a rarity on today’s roads and civility or the lack of it is not only on our roads, but everywhere. So I urge that we need strict and persistent law enforcement, otherwise passing new laws as we are here to do today will make little or no difference.

I divided my little contribution into parts and the first part was alcohol effect. Sen. Dr. Tim Gopeesingh covered the absorption process on the long-term pharmacokinetics of alcohol very well. I will not handle that, except to say that I notice, in terms of the liver being the main organ where alcohol is metabolized and turned ultimately into carbon dioxide and water, it seems that this is the reverse process. It takes carbon dioxide and water in a photosynthesis process to form carbohydrates and then we ferment carbohydrates to form alcohol. So it seems that there is a cycle in this whole process which I only realized while I was sitting here.

### **7.30 p.m**

On the question of tolerance to alcohol, it is interesting to note that in this report, the Professor says that there is a lower tolerance to alcohol in younger persons; probably because they are not used to alcohol. So the youngsters you put in a car to drive are the ones who are most susceptible to driving fast and losing control of their cars. So, young persons and senior citizens—I cannot judge myself, but I fall into that category where they say that tolerance is lower.

As regards impairment, I think Sen. Dr. Tim Gopeesingh also went through some of the items of impairment including cognitive impairment, which is at the lower level; 30 to 50 milligrams per 100 ml blood alcohol content, and which is below the limit proposed for us; physical evidence of it at 150 milligrams. To show that alcohol is a killer, you would be dead if you have in your blood 500 milligrams per 100 milliliters. That is a fact of life.

*Motor Vehicles and (Amdt.) Bill*  
[SEN. ALI]

*Wednesday, July 04, 2007*

Mr. Vice-President, I believe there was a little confusion here or misunderstanding about units of measurement. So, to make it quite clear, the measurements as given in the draft legislation for both are consistent. For breath measurement you have 35 micrograms per 100 milliliters and for blood, 80 milligrams per 100 milliliters. I think this is where we stand. I hope my fellow Senators understand it. If you do not understand it, I can only blame one person, and that is the hon. Minister of Trade and Industry for not proclaiming the Metrology Act after three years. [Laughter] The assent date was June 25, 2004. Here we are talking in all these fancy measurements, and I am trying to bring—I see even the Secondary Entrance Assessment (SEA) students are learning about the metric system, but we are way behind. I am asking the hon. Minister to find out from the other hon. Minister where we stand on proclamation of that important Bill.

My next subject is blood versus breath alcohol. I looked at this because I was not sure what the relationship was between blood alcohol and breath alcohol. Prof. Pereira went back to basics and came up with what is really a theoretical figure. It is a figure called the partition ratio which is 2100. This means that blood alcohol content is 2100 times the breath alcohol content. This is why you have breath of 35 micrograms per 100 millilitres and blood is 80 milligrams per 100 millilitres. There is a little catch there. If I use that figure of the 2100, and since the standard of blood is 80 milligrams per 100 millilitres, I get a figure of 38. So, at 80 milligrams per 100 millilitres per blood and 35 micrograms per 100 millilitres for breath, the ratio is 2300. In fact, that is the ratio that is given as the average partition ratio for this conversion between blood and breath.

In a way, we are already going at a relatively high level for blood alcohol in the first phase, and I agree with that. If we use that figure of 2300 which gives us 35 micrograms per 100 millilitres, once again, we are being conservative. There is about a 9 per cent underestimation by the measurement of the fixing of the level of breath alcohol at 35. I have looked at that and that is my conclusion.

On the blood alcohol limits, I think the Minister did not give us a Japanese figure which is some 250 milligrams per 100 millilitres. I do not understand it. I have a suspicion why that is so. In Japan, at 11.30 p.m, you are going to see the most taxis in your life, because that is the time all the bars are closed and people with their staff, et cetera, head towards their taxis to go home. They do not drive. That is the point. They just do not drive on those days when they go to the bars. Maybe that is why they have a high limit of 250. I do not know.

We are at the 80 milligrammes per 100 millilitres—

**Hon. Imbert:** I want to thank the Senator for giving way. In fact, that has actually been changed. There was a bizarre system. The document that I have reads as follows: In Japan there is a bizarre system where the limit was .25 per cent—250 is very high, but it has since been altered to .15, but it is still one of the highest in the world. It is described as a bizarre system.

**Sen. B. Ali:** So, at .15 which is 150 milligrams, it is still higher than anywhere else. India has one of the low limits which is 30. We have those countries which are zero like Saudi Arabia and Malaysia which are Muslim countries, but the surprising countries are Czech Republic, Hungary and Slovakia. They also have a zero limit which is very surprising. I am saying that the Slovaks cannot drink slivovic. Maybe the reason they put it there is so that all their slivovic would be exported and they would not drink it. [*Laughter*]

Mr. Vice-President, I would like to talk towards standards in this process that we are going through here. In going through the Bill, only once did I see the Bureau of Standards Act mentioned, and it was in respect of hospital laboratories, where the Minister of Health has control and it says that those laboratories have to be certified or accredited by the Minister of Health. I feel that we need to establish standards for a number of things because we are introducing a test method; a test analysis system for breath alcohol particularly. We must establish standards for instruments for breath control analysis; for test methods for blood and breath measurements; and finally for testing the calibration and certification of instruments. This is an important item.

Someone mentioned the chaos in Mount Hope with respect to those halothene vaporizers where they came into this country and they were not calibrated, and put in there and it was not realized until it was too late, and the young girl died under those circumstances. So, I would like to see all these items reflected in the regulations.

[MADAM PRESIDENT *in the Chair*]

I think the Bureau of Standards is the best place to provide these services, because that is, in fact, their job according to the Act. The Bureau of Standards is the certifying authority and the standards authority, et cetera. I think they have competent persons there—I know the people there—who can do that sort of work. I think it is also the best place to provide training of police officers, and they have facilities for doing such things, and for the setting up of any station, mobile or fixed as may be necessary in the implementation of this process of breath alcohol testing.

*Motor Vehicles and (Amdt.) Bill*  
[SEN. ALI]

*Wednesday, July 04, 2007*

I think the facility can also be used for public awareness programmes where there can be demonstrations. They have all the test facilities including the conference rooms, et cetera, for doing such things. I would strongly recommend to the hon. Minister, if he has not done so already—he may have already done so—to speak with the Bureau of Standards. As I said, by law, they are the national standards authority base.

Madam President, I am coming to the Bill which is, in fact, my last item. I have raised clause 4, and I thank the Minister for reacting to that and he will be addressing it in his winding up. I am glad that I found that because it made quite a difference. So, it is in hand in these proposed amendments which we have before us to be considered in the committee stage.

The other point with respect to the Bill refers to three sections: a new subsection 70(4), subsection 70B(9) and subsection 70C(13). They all relate to the Minister approving devices for testing, detection, et cetera. I am of the view that these should be prescribed by way of regulations made in concert with the Bureau of Standards.

Madam President, this is important because if we are going on this which is a large scale process, and we have to choose people who are the distributors, et cetera—there are so many analysers, particularly the breath analysers. If you go on the website you could find hundreds of them and they say: “Home Office approved for the British ones”, and they give you a list of the prices, et cetera. But if people are bringing them in here—our local representatives or agents are going to be here—they have to do one of two things: be prepared to do all these things like calibrate, et cetera or be able to contract it to the Bureau of Standards so that they can handle it. This is a very critical part of the process.

If I remember correctly, the Bill itself talks about the condition of analysers and where you have to ascertain that they are in good working condition. The only way that you can do that is to have them calibrated and certified by a competent authority.

Madam President, I am in support of this Bill. I think it is very important that we have got there. I am hoping that will be enforced in good time. I heard Sen. Prof. Deosaran talking about Carnival, but I am hoping that it would get here by Christmas, because that is another high season. *[Interruption]*

**Sen. King:** By Independence.

**Sen. B. Ali:** No, that is too close. August 31, 2007 is too close. You must have the regulations and the tendering process and so forth. So, I would give the hon. Minister until the beginning of October or November thereabout, to get the system in place so that we would catch the holiday crowd.

Once again, I want to congratulate the Minister and his team and all who participated in the work. I noticed that there has been talk about bipartisan arrangements for this, but I would like to say non-partisan. It is a non-partisan document, because we are Independent on this Bench and we have a representative. I would like to put it that we have before us, a non-partisan report, because we are going to make our choice individually that we would support it.

Thank you very much. [*Desk thumping*]

**Sen. Wade Mark:** Thank you very much, Madam President—Sen. Cropper, do you want to go? Madam President, may I give way to her?

**Madam President:** Go ahead.

**Sen. Angela Cropper:** Madam President, thank you. I think we are really excelling ourselves tonight. Thank you very much, Sen. Wade Mark. It is with some reluctance I rise to contribute to this Bill; not because I am not in support of it, but because at this hour of the night and the length of this debate, I rather fear that I might be contributing to driving us all to drink instead. I do rise in support of the Bill. As far as I am concerned, the reasons for that support are so readily evident that it is not necessary to go into any long explanation and justification for why we have this Bill.

Certainly, we have had a few decades to think about the utility of a measure like this in addressing some of the problems. We know the mischief very well that this Bill seeks to address. We have had it regaled again here this evening, almost ad nauseam for us, so I do not intend to do that.

I would simply like to say that I am really very encouraged by the opportunity to see policy reflected in legislation that is so evidence-based. We are not used to that in this country, I might say. I think we are used to hearing pronouncements about public policy, and on many an occasion those of us who are inclined to research, analysis, assessment and public policy analysis and so forth wonder: What is the evidence for this bit of policy or this pronouncement that we hear? In this particular case, I think the evidence has been there. It has been abundant; it has been long standing and, perhaps, we should all simply have said: “Thank you, Minister, at last, thank you.”

*Motor Vehicles (Amdt.) Bill*  
[SEN. CROPPER]

*Wednesday, July 04, 2007*

I do feel that this evening's sitting of the Senate has been exceptional, certainly in my own short experience of being here. I would also like to commend both the Government and the Opposition Benches for the non-partisan approach that they have brought to this very important piece of legislation.

It is in striking contrast to what we have come to regard as the norm and I dare say that the viewing public might be very encouraged and reassured that it is possible for the Parliament, and those of us who serve in the Parliament and serve the country through the Parliament to rise to higher levels and standards of performance ourselves.

Particularly noteworthy, I think, have been the absence this evening of recrimination from one side to the other with which we have become so accustomed, and which we on the Independent Bench sit through and suffer on many an occasion.

I really did appreciate the approach of the Minister in presenting the Bill. He was very explanatory in his approach; not defensive or browbeating and, perhaps, that had to do with the history of the Bill, and the fact that it has gone to a joint select committee and that he was also expecting that we might have made short shrift of this and be very quick in saying how much we support the Bill and get on with it.

I would also like to say how much I appreciated the statement made by Sen. Dr. T. Gopeesingh—I think it was so gracious—in support of the Bill. It is very remarkable, and I take the opportunity to thank him and to remark about it and, certainly, it is very welcome indeed.

Sen. Prof. Deosaran mentioned that the Bill may present a culture shock to the country but, perhaps, this evening's sitting of the Senate itself may also present somewhat of a culture shock to the viewing public.

I would also like to commend the drafting team, the experts and the team of functionaries who assisted the committee. I think we have got a remarkably good product. I think there are complex provisions, but they are very clear and competent in the drafting, with the exception of the matter raised by Sen. Basharat Ali and to which the Minister has already responded.

I also welcome this evening the way in which the contributions contain so much of an educational value; not only to us here in the Senate, but to the listening public. I was very taken by the various examples that the Minister gave about the varying effects of alcohol depending on body mass and gender and so

forth. I just wanted to raise a caution, in a way, for him here that given our propensity in this country to get around regulations—something that is so central to our cultural and psychological make up—perhaps the Minister should be prepared to see a rise in obesity as a result of this Bill, as we all try to get around this particular regulation. It is something that you may have to debate with your colleague, the Minister of Health.

For me, this legislation is very welcome and I support it for all the reasons that everyone else has given so far. The enforcement of it is equally important as Sen. Dr. Gopeesingh and others have indicated. In my view, however important the legislation or effective the enforcement, I believe that the objective that we have in mind here through this Bill will not be served as much by these, as it will by our own individual behaviour and by the development of our own capacity for self regulation, something that is so lacking in us—citizens of Trinidad and Tobago. Sen. Dr. Mc Kenzie and Sen. Prof. Deosaran have spoken about this and I support that point of view very strongly.

With respect to enforcement, public education and other measures that are required—I think that Sen. Dr. Gopeesingh has covered the waterfront already on other measures. I know that the Minister already has a long laundry list of additional things that need attention. I hope that those things do not go unnoticed or unanswered, because they are all very important to make the very holistic and comprehensive approach that is required if we are to make the change that we need. I will not repeat any of those measures except I would like to draw attention to and emphasize a few of them.

The first is the matter of legislating about cellphone use while driving. I share the view that this is really very important and, indeed, very urgent. I must express my own regret that we have not taken the opportunity in the course of revising the Act and through this Bill to make provision for this. I think we have lost an opportunity. It is so important to address these issues before “rights vest” as we see so readily in the country through vending booths being set up on the highway or illegal or unauthorized dwellings being set up and so forth. The longer we take to address these issues, the more the “rights vest” and the more difficult it is to overcome, as we are seeing in some instances right now, one which we debated here last night.

I happened to be living in Switzerland just at the time cellphones hit the market; and before they were even widely available on sale in the stores, the Swiss Government made it clear that there would be no driving while talking on a cellphone. If you needed to use a phone while you were on the road, you had to

*Motor Vehicles (Amdt.) Bill*  
[SEN. CROPPER]

*Wednesday, July 04, 2007*

pull aside and stop in order to do so. They death with the matter quite preemptively, because it was foreseeable that once that was allowed to develop as a pattern, it would be more difficult to overcome at a later stage.

Here in Trinidad and Tobago it seems that it is so difficult for us to regulate ourselves, and to do the right thing, even when we know what is the right thing to do—we all seem to be motivated to do that only when the policeman is there looking over our shoulders, as it were. We have heard so many speakers here this evening talk about the lack of police enforcement on the road, as though we need to see the police on the road before we are disposed to drive properly and drive with care. I certainly think that is the kind of attitude that we need to work to move away from.

Perhaps the Minister needs to contemplate the furore that we would have in this society whenever we come to that time, when we try to legislate against the use of cellphones while driving. This is going to be a big task, and the longer we wait the more difficult it would be. We, as good Trinians, would think that is an inalienable right that we have acquired by then; we are going to give you a hard time, Mr. Minister.

The second aspect that I want to emphasize is the training of police officers. Again, not to repeat what has been said before, I think the training is important not just for police officers to carry out the analysis on the instruments that are to be provided, but I also think that it is an opportunity to add to and enhance the training of police officers in the administering of this legislation.

For me, it is so important for a Bill and a set of measures through which we are trying to contribute to civilizing the society and civilizing ourselves; that that objective is also met by a very civil approach to the administration of this law. I think we should take the opportunity to offer that kind of training as well. It is not just the objective and the product that matter, but it is also the process and the manner in which police officers engage with citizens in the course of enforcing this legislation.

In that regard, I did want to ask the Minister, in respect of section 70B(1), why the Bill seems to provide for the empowerment of constables as distinct from police officers? I am not sure whether it is only constables who are assigned to road detail. It seems to me that empowering police officers—

**Hon. Imbert:** Thank you. That point was debated at length by the committee; the use of the word “constable”. If you go to the definition section on page 19 “constable’ means a member of the Police Service;” It is a common word used to describe any police officer.



**Sen. A. Cropper:** Thank you. I did read the interpretation section, but I missed that. However, it seems so archaic. It is like the Attorney General defending the law of interpretation that says “he” includes “she”, but it should be “she” includes “he”. *[Laughter]* It seems so anachronistic to say that we are empowering constables and then we have to go to an interpretation section to learn that means that we are empowering all our police officers through these provisions.

Madam President, I should also draw attention to section 70A(5), and Sen. Seetahal SC has already brought up this point. I want to come at it from a different angle. It is, indeed, the only provision in this Bill which gives me some lingering difficulty, that is, the empowering of plain clothes officers to stop and to arrest citizens without warrants. That gives me a great difficulty in the social context, and in the context of crime and violence that we now know so well.

**Hon. Imbert:** As far as I am aware, the plain clothes officer has to show his identification.

**Sen. A. Cropper:** Well, thank you. If I am driving home late in the night on my own, and a plain clothes person on the street seeks to stop me, what am I to do? We are being sensitized now not to stop in such a situation. I think that is going to be very unworkable. Who will stop these days or nights for any plain clothes police officer waving you down on the road? You would first say: “Show me your badge before I engage with you?” It makes no sense whatsoever in the context of the social experience right now in the country.

In reference to this point, Sen. Seetahal SC did point out that it is already established in the legislation that plain clothes police officers have that power. I think it is something that we really need to examine, because in my view no sensible citizen, right now, with no feeling or no knowledge that they are doing something wrong or have done something wrong, will make the decision to stop on the road day or night if somebody flags them down to introduce themselves to say: “Do you know I am a policeman? Here is my badge.” I do not see how that is going to work. That is a provision that gives me considerable difficulty. I think we have to see legislation in a dynamic way in the context of the society and, probably, reexamine this provision in the Bill.

**Hon. Imbert:** Sen. Cropper, thank you for giving way. I think this is something that we could discuss at the committee stage, because there are arguments for and against. We could discuss it and make a decision at that time.

**Sen. A. Cropper:** Minister, thank you very much. The third point to which I wish to draw some attention and to emphasize is the matter of the issuing of drivers' permits. Sen. Prof. Deosaran has spoken about this already and I simply want to add the suggestion that I think it is time for us to look at upgrading the training and testing requirements for the issuing of drivers' permits in the country. I think the situation has drastically changed from 10, 20 or 30 years ago. Just the sheer density of traffic on the road probably requires a different kind of training and tuition for learner-drivers than we may have in place. That is something to look at.

Sen. Dr. T. Gopeesingh talked about some of the allegations that are made about the conditions that exist at our licensing authority. It may well be that the term "buying your licence" may have literal meaning, and may not just be an alternative to an expletive that we all would like to use when we get a bad drive from someone. That training in today's society and in today's traffic situation also includes components related to road etiquette, because here is where we fall down so dismally, in addition to driving under the influence.

The final area that I would like to emphasize is that of public education. It seems that for so many Bills that we debate here and legislation that is passed, we make the point that public education is so important if the purposes of the Act are to be achieved. Indeed, sometimes without that public education it is going to be impossible to achieve the purposes of much of the legislation that we pass, and I would say especially with this particular piece of legislation that is before us. I would include in that public education, the measures and the facilities for remediation of people who have chronic problems, as has already been said by Sen. Seetahal SC and others.

I think the real issue before us here is to transform our individual behavior, the way we drive. That is much more difficult than getting legislation passed; even legislation that requires a three-fifths majority. It is much more difficult for us to influence the society, and for us as individuals and for us as a society to change our behaviour.

In reading the Bill and preparing for the debate, I could not help thinking of that familiar saying about "an immovable object meeting an irresistible force." As I thought about it, the only exception to that is that in this particular situation that we are trying to deal with and the particular mischief that we are trying to address, these forces are lined up on the same side. The forces here are our culture of

drinking; together with our culture of driving. Those are the things that are lined up, and this piece of legislation is going to collide with those two forces. It is a double whammy that we are trying to address here.

I noted in the Minister's introduction, that a civic society group was invited and made representation and input into the work of the committee. I would like to say how much I commend the Minister, as Chairman of that Committee, for that invitation and for that openness. Perhaps, there is hope for civic society groups in this society. Perhaps the Minister would consider how such civic society groups which already have a track record in this area of trying to educate and sensitize the population about the dangers of driving under the influence, might be enlisted in the whole programme of public education. I think that if we are successful in the public education that this Bill necessitates, that will help us to make the transformation to civilize the society that we are trying to contribute to through this Bill.

Thank you. [*Desk thumping*]

**Sen. Wade Mark:** Madam President, I am happy to join this debate at this moment, and to join with my senatorial colleagues in recording my appreciation for the work of the joint select committee. It was all part of the anti-crime talks that we held with the Government around 2005, and we now have the birth of one of the several pieces of legislation that was agreed upon.

When I looked at the report on page 7—I just want to take over from where Sen. Angela Cropper ended her contribution—it says:

“Your committee is also of the firm view that an aggressive public education campaign should be undertaken to ensure that members of the public are edified about the legislation and its implications.”

I would just like to add and to advise the hon. Minister of Works and Transport that this should not be a sporadic intervention in terms of education for the public. It should be a permanent arrangement; it should be an ongoing education campaign.

In fact, I would like to address to the hon. Minister, through you, that a national safety department or division should be established in his ministry. [*Desk thumping*] A permanent national safety division or department whose mandate, among other things, would be to keep the public constantly sensitized and educated on the whole issue of road safety in our society. I would like to commend this suggestion for the hon. Minister's consideration.

*Motor Vehicles (Amdt.) Bill*  
[SEN. MARK]

*Wednesday, July 04, 2007*

There are several other rich suggestions I would want to submit, seeing that today we have virtually declared a sort of ceasefire, and we are dealing with legislation that we have all collectively agreed upon.

I want to ask the hon. Minister from the outset: Who will guard the guard? We are putting enormous powers into the hands of the police; a police service that even the Commissioner of Police said a couple days ago, has to weed out corrupt and crooked police officers, even at the executive level of the police service where an executive member of the police service instructed police officers at the St. James Police Station two weeks ago—and he is still in the force having press conferences every week—to release his son. These are the kinds of officers that we are going to put—I have his name but I am not going to call it for a number of reasons. I will not call it tonight, but we know the officer. We are giving these officers in the police service more power.

Madam President, the question here is: Are these officers who are going to enforce these provisions trained? Have these officers been provided with the necessary skills and knowledge? Madam President, we do not believe so. I will come to that issue of officers who are not in uniform and officers who are in uniform are equally dangerous.

We have brought to the attention of the Minister of National Security where police officers rent their uniforms to bandits and their guns to bandits, and they are still in the police service, and we are putting power into their hands. I am saying that we have to give power to somebody, but we have to be careful that we are not putting monsters to monitor and enforce the law.

I have an article from the Internet entitled Global Road Safety Crisis. There was a conference in New York on October 22, 2003 and there is a quotation from the Minister of State for Transport and Health from Singapore and it reads like this:

“The road environment is a complex interplay of different road users interacting and responding to one another’s actions based on how they think the other party will react. Highway codes and traffic rules help to establish some of these norms, but it is impossible to have rules that cover every single aspect of road behaviour. Hence, a person’s safety must start with him having the right attitude and acknowledging that there is no red-carpet treatment for anyone on the road. Every road user is equally vulnerable, regardless of whether he or she is a pedestrian, cyclist or a motorist. Therefore, all road users need to play his or her part to bring about a safer, smoother and less stressful journey.”

I thought that was a very appropriate kind of quotation to capture the responsibility that we all have as road users in our land.

Madam President, there is another important quotation that I would like to share with you and it goes like this:

“Motor vehicles have become such an efficient and convenient mode of transportation, as well as an essential part of our everyday lives in some form or other, that we often forget that these high-velocity moving lumps of metal and plastic are also lethal weapons. Every year, we pay a heavy toll in human lives for this convenience.”

Madam President, the legislation that we have all agreed upon via this joint select committee report is about improving road safety in our country.

I want to indicate from the outset that the time has arrived, when we look at the Minister's statistics on road fatalities in our country. In 2002, 163 persons have died on the roads in our country; in 2003 it went from 163 to 199; in 2004 it jumped to 209; in 2005 it went to 217; and at the end of 2006, it was 210 persons who died on the nation's roads. As of today's date, it could be anywhere between 130 to 132.

**Hon. Imbert:** It is 126.

**Sen. W. Mark:** I am sorry; it is 126. There is a social, financial and economic cost to these road fatalities and traffic accidents that we are enduring on a daily basis. Madam President, do you know what is sad about this whole process? The hon. Minister of Works and Transport, from where I stand today, has not been able to enunciate in the period that he has been in office as the Minister of Works and Transport, a national road safety policy. We have not been able to glean or to discern a national road safety policy for our country.

As an example, in Singapore, because of how they have dealt with road fatalities and road traffic accidents where they have systematically employed polices with a view to reducing road fatalities in that country, today Singapore could possibly be enjoying the lowest road fatality rate in the world. Do you know why? They have gone about their business in a systematic way.

There are measurable targets and they achieve those targets at the end of each year by putting in place measures to prevent the carnage on their roads. All we get from our Government is old talk. So, instead of taking steps to reduce the carnage on our roads, what we are seeing taking place every year in our country is a heightening, an intensification and an increase in the number of persons who are perishing in our land.

*Motor Vehicles (Amdt.) Bill*  
[SEN. MARK]

*Wednesday, July 04, 2007*

Let me share with you what the hon. Minister of Works and Transport told the country in an article dated June 01, 2007 in the *Express*. He said:

“Road traffic crashes in T&T are costing the economy more than \$125 million.”

That is the cost that the hon. Minister is on record as telling us; costing this nation on an annual basis. Look at the kind of money! We must invest in road safety in our country. Too many young persons are perishing on the roads of our country, and one life is too many; one fatal accident taking one life is too many. We would like for the Minister of Works and Transport and the Government of Trinidad and Tobago to invest much more money into a programme of road safety in our country.

There was some team called: Arrive Alive, which I understand met with the committee, and in the same article they said that road traffic accidents or crashes caused the economy \$37.6 million in medical expenses. So, it is costing the economy \$125 million and then another \$37.6 million in medical expenses, and the burden placed on the private sector amounts to \$88 million. These are the statistics coming out in this article. This tells us that this matter of road safety is very serious. It is serious business in our country.

The Minister in the sixth year of his Government’s existence is coming here with a couple weeks to go before a general election to pass this piece of legislation. I do not know if he would have time or we would have to do it for him, because I know he is racing against time at this time. We need to establish a national road safety division or department in that ministry.

I would like to indicate to you and I would like the hon. Minister to verify it, because in the other place on this same matter, he indicated—and it is on the record of *Hansard*—that the experts have stated that alcohol consumption by drivers in our nation is responsible for 30 per cent of the deaths and accidents on our nation’s roads today. That is what the Minister of Works and Transport said in the other place. He said that experts and research have shown that 30 per cent of the accidents that are caused on the roads are caused by the consumption of alcohol.

We are now in the process of passing commendable legislation to deal with the breathalyser and to deal with those speed demons, the road hogs on our highways of this land, and who cause a lot of death, mayhem and destruction to families, mothers and fathers.

I could never forget those three young children who went to celebrate an 18th birthday after they have completed their examinations and they left some club in Gulf City called “The Edge”, and when they were coming out some criminal—without the authorization of the Minister of Works and Transport—put up concrete barriers that if you and I were driving, we would not see them. There were two accidents before that, and these three young babies 18 and 17 years old perished in flames, and not a single person has been held culpable or criminally liable for the deaths of these three children.

Here it is we are dealing with good legislation in the context of dealing with an aspect of road accidents in our country. I want to repeat that 30 per cent of the accidents caused in this country are as a result of alcohol consumption, so we have a deficit of 70 per cent. So, when this legislation is passed it is not a panacea; it is not an overall solution to deal with accidents in our country, because only 30 per cent of the people would be captured. So, out of every 10 persons, this Bill will capture three, but seven will remain outside of the net.

What other measures are going to be advanced or adopted to deal with the other 70 per cent, because the other 70 per cent is out there, and the Minister of Works and Transport is fully aware of it? He has to take action to deal with these road hogs and criminals behind wheels who are murdering people in broad daylight, and because of the lack of enforcement of the law, they go unpunished.

I would like to suggest to the hon. Minister of Works and Transport that we may have to suggest, through his new department, the national road safety department that they ought to dedicate a special day which should be set aside on an annual basis as a day of remembrance for the victims of road traffic accidents and their families in our country.

We need to have a special day set aside as a day of remembrance of those citizens who have perished so that it could be a kind of reminder to us in this country on a yearly basis, that we have to become more sensitized and more aware of the dangers of the roads and the dangers of driving in a very reckless manner.

### **8.30 p.m.**

Madam President, there is no substitution for education. It must be constant; it must be continuous; it must be lifelong. Education! Education! Education! That is the weapon for liberation in our nation. We need to understand today, tonight, this evening. I want to give my hon. colleague and friend some more rich suggestions and if you do not implement it, I will become the next Minister of

*Motor Vehicles (Amdt.) Bill*  
[SEN. MARK]

*Wednesday, July 04, 2007*

Works and Transport and I will implement them. [*Desk thumping*] I will implement them if you fail to implement them. I will be the next Minister of Works and Transport, if my leader decides to put me there. [*Laughter*] I always have to qualify, you know.

**Hon. Imbert:** Who is your leader?

**Sen. W. Mark:** The hon. Basdeo Panday. Madam President, may I continue? I would like to suggest to the hon. Minister of Works and Transport; I want to put an advance on a very serious matter. If we are going to deal with the road hogs, the speed demons and the drag racers in our land, the computerization of the Licensing Division and effective traffic control is critical in this area.

It is very sad, but you know in Trinidad and Tobago in the year 2007, on the fourth day of our Lord, we have a dump called a licensing office or passes for a licensing office in our country. It is a shame in a country with so much wealth that after how many years of Independence, we do not have a modern technologically and scientifically driven system of operation governing licensing of vehicles in our country, as well as providing people with training to obtain their licence in our country. It is a shame and I want to tell the hon. Minister, through you, Madam President, that for the police service to really operate in an effective way, they must be linked to modern technology in their vehicles. They must be able to press a knob and get right into the database of the Licensing Division. That is the kind of modern technology and if you want to deal with the road hogs, the speed demons and all those people who are engaged in theft of motor vehicles and changing of number plates, you have to have a modern system and it must be computerized. [*Desk thumping*]

We are in the year 2007. If you go to that office called the Licensing Division, you will puke. A letter was written in the *Trinidad Express* dated Friday, May 18, 2007. It is entitled: "Licensing Disgrace". I want to read it. Minister of Works and Transport, you should listen to this. This is John Lloyd of Maraval, he is the writer. He said:

"I HAVE recently had the misfortune of having to waste the better part of two days in the last few weeks, accompanying my daughter for her driving test at the licensing office on Wrightson Road.

If there is one department of the Ministry of Works that Minister Colm Imbert dare not defend, it is this disgraceful operation. The place is an abomination of discomfort, inefficiency, lack of customer service and time wasting.



Not to mention the blatant corruption that exists with regard to the 'buying of licenses', which I am reliably informed is probably the only way that my blue-eyed, blonde-haired daughter is likely to get her permit, and there lies yet..."

**Sen. Yuille-Williams:** Madam President, on a point of order. I think he knows that I am standing and he does not wish to get on, so we will have to stand in.

**Madam President:** Senator. On a point of order, Senator.

**Sen. Yuille-Williams:** He cannot just continue like that at 8.40 p.m.

**Madam President:** Senator, I will have to do with you what I have done with the other Senators and that is pull you up and ask you to please come to the Bill, because anyone who is irrelevant today, except Sen. Dr. Gopeesingh because he was discussing the Committee and so on, I had to pull up everybody, so I will have to do the same here.

**Sen. W. Mark:** Are you pulling up my socks at all?

**Madam President:** I am not pulling up your socks; I am pulling you up.

**Sen. W. Mark:** I welcome you pulling up my socks.

**Madam President:** Please, come back to the Bill.

**Sen. W. Mark:** I thought I was on the Bill.

**Madam President:** No, you were not.

**Sen. W. Mark:** No, I am not, okay; according to my colleagues there. [*Crosstalk*] Madam President, if we cannot see the link between for instance— Madam President, may I continue because I think they want to go to the United States Embassy celebrations.

**Hon. Senator:** It is finished.

**Sen. W. Mark:** Oh, it is finished? Okay. Well, why can they not remain quiet? Or are they hungry? Madam President, may I continue? I think you should get a cup of coffee. Madam President, may I continue? We are talking about police officers.

**Madam President:** No, we are talking about the Bill.

**Sen. W. Mark:** Yes, Madam President, the Bill. Let me read the part with the police officers. Go to clause 5:

*Motor Vehicles (Amdt.) Bill*  
[SEN. MARK]

*Wednesday, July 04, 2007*

"A person shall not drive or attempt to drive, or be in charge of a motor vehicle on a road or other public place if he has consumed alcohol in such a quantity that the proportion thereof in his breath or blood exceeds the prescribed limit."

And they went on to tell you that:

"Any person who contravenes subsection (1) is guilty of an offence and is liable—"

Now it is \$8,000 and no longer \$5,000 and an imprisonment of three years. It goes on in subsection (5) of 70A. You see I was coming to this, you know, but seeing that I have so many areas of this Bill that I am now going to spend the rest of my time on. I was going to wind up, but I now have to spend some considerable time going through these clauses, clause by clause. May I continue?

Madam President, go to subsection (5) because I do not want you to lose at all this rounds. Clause 5:

"Any constable in uniform or on showing his authority as a member of the Police Service may arrest without a warrant, any person committing an offence under this section."

I want to let you know that the police should be released to go on the crime beat in our country. There are about 7,000 police officers in our country and a sizable number would have to be devoted to this Bill, to implementing this Act. I want to ask the hon. Minister to consider the introduction in our country of traffic wardens.

Hon. Minister of Works and Transport—Madam President, through you—is disturbing this Chamber; he is speaking whilst I am speaking and I seek your protection. [*Laughter*] Traffic wardens; why it is we have abandoned the concept of traffic wardens? We can train these people to take over the responsibility of police officers. You know how many police officers can be released to deal with criminal activities in our country, if this Government could only think and think in an imaginative way? They seem to be bereft of ideas. Bankrupt! It is a simple solution. We have the work force; there are 5,000 people in CEPEP; retrain these people and make them traffic wardens

**Hon. Imbert:** May I ask a question?

**Sen. W. Mark:** You want to ask a question?

**Hon. Imbert:** Through you, Madam President, and I thank the Member for giving way. These traffic wardens, would they have the power to arrest?

**Sen. W. Mark:** My colleague is aware of what a traffic warden is, so I do not think he should be posing a question that he is conscious of. You are conscious of the question; you are conscious of the answer. It is a concept that we developed; the Government is aware of the concept. I am asking the Government to consider the establishment of traffic wardens in order to ease the burden of the police service. I think it is a rich idea and you ought to take it on board fully. I am concerned—*[Interruption]* Joe, you can speak later.

**Sen. Dr. Gopeesingh:** It is John.

**Sen. W. Mark:** John, okay. I am very concerned about the kind of power that we are giving to police officers. Suppose a police officer has politically targeted persons and Madam President, I want to remind you, who is going to test these police officers. They are going to be charging me or coming to charge me, or coming to take some breath test; they are going to do an analysis to determine if I have a certain milligram of alcohol in my bloodstream. Suppose that police officer in question was inebriated before. I know of the cases where police officers in uniform drink rum; we know about that. And if they want to deny that, they can live like the frog or the tadpole in their own cocoon and hear their own beat and sounds. But the reality is that there are police officers in the police service who drink while they are on duty. So, I want to know if these policemen are going to be subject to some kind of test, because they are going to charge me. I am saying that there has to be a system.

You know recently we passed a Bill saying that all policemen in the service must be fingerprinted. That is our law in our books. I am saying there must be some system where you test police officers before they enter the police service. There must be a mandatory drug test for alcohol and other drugs.

The point I really am on, is the whole question about victimization. Let us not fool ourselves; we do not have a clean police service. We know we have to trust the good policemen and there are good policemen in the police service. I know my colleague, the Minister of National Security, gets a bit hot under the collar whenever you talk about the police. And you know what is even more disconcerting when wrongs are committed in the police service, our Minister of National Security does nothing about it.

**Sen. Kangaloo:** No, no, no, you cannot say that.

**Sen. W. Mark:** Well, I know the name of the policeman who actually called the police station and instructed his son be released along with two other SRPs. And I want to know what the Minister of National Security is doing about that.

**Madam President:** Sen. Mark, come back to the Bill, please. [*Crosstalk*]

**Sen. W. Mark:** Yes, I know, you are going to test them. Breathalyser; "yeah, yeah". The "fella" in charge of crime; you know him? Good. Madam President, may I continue? [*Crosstalk*]

We are all in support of the legislation. I would like the hon. Minister to give this Parliament a road map for the implementation of this piece of legislation. You could imagine we are passing legislation for public relations. This is public relations gimmickry; this is what it is. We do not have any regulations; look it here. Let me give you the section of the Act. Go to 70H of the Act:

"The Minister may, subject to affirmative resolution of Parliament, make regulations for giving effect to the purposes and provisions of sections 70A to 70G."

So, the whole legislation.

**Sen. Jeremie SC:** May I speak?

**Sen. W. Mark:** Of course.

**Sen. Jeremie SC:** The section says, "the Minister may"; it is not a condition precedent of the legislation that the Minister "shall" make regulations.

**Sen. W. Mark:** I know my colleague is very nice with words and so on, but tonight I am very clear in what I have read. It says:

"...to give effect to the purposes and provisions of sections 70A to 70G."

It means that to really elaborate on the various provisions contained in the legislation, there is need for regulations.

**Sen. Jeremie SC:** Where you see that?

**Sen. W. Mark:** I am submitting to you that there is need for regulations. If the hon. Attorney General is saying there is no need for regulations, he knows something that should not be in this legislation. [*Interruption*] All right; all I am saying is that if we are to give full effect to the legislation there would be need for regulations and if you are saying there is no need for regulations, let us delete this section of the legislation. [*Interruption*] No, well, you are sleeping, I am up. How long again do I have, Ma'am?

**Madam President:** You have four minutes and then your extension.

**Sen. W. Mark:** I would like the hon. Minister to share with us an implementation plan for the legislation, because too often we are told and I would like him to tell us—Madam President, through you—when would this Bill be implemented? When it is passed tonight and you go downstairs; get the amendments approved; when would this Act or when would this law or when would this Bill be effected and when will it become operationalized? Because people are anxious to get this Bill working and we are anxious to see it going. So, I would like him to outline for us tonight what is the road map, the implementation plan that he has. What are his targets for achievement of the provisions of the legislation? I think from now on the Minister should come to this Parliament and tell the country what plans he has to reduce road carnage on an annual basis, in a measurable way in this country over the next few years. [*Desk thumping*] Tell us what your plans are. We want plans; we want measurable targets.

I want you to go to clause 70B(4). It says, and I need some clarification:

"Where a person referred to in subsection (3) is at a hospital as a patient, he may be required by the constable to give a specimen of breath at the hospital but no such requirement may be made unless the medical practitioner in charge of his case—

(a) is given prior notice of the proposal to make the requirement...".

When we talk about "prior notice" is there a time frame? How is that going to be effected? Is that going to be effected through the regulations so we would know that when you talk about prior notice, is it going to be 48 hours; 72 hours; three days or one day? These are things that you need—

**Hon. Imbert:** I will answer it now.

**Sen. W. Mark:** He said he will answer. You will answer? Okay.

**Hon. Imbert:** Thank you, Sen. Mark for giving way. In this particular section you have to read both sections together. The notice must be prior obviously, but the medical practitioner has the option to object; so you have to read both of them together. The "prior notice of the proposal to make the requirement" and "does not object to the provision of a specimen on the ground that this provision or the requirement provided would be prejudicial to the proper care or treatment of the patient". You put everything in the hands of the doctor. The constable must go to

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

the doctor; give him notice that I wish to take this test. It is up to the doctor then to say, yes or no. The doctor could say no, this patient is in no condition, come back next week or something like that.

**Madam President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. J. Jeremie SC*]

*Question put and agreed to.*

**Sen. W. Mark:** Madam President, this is bipartisanship at its finest. [*Desk thumping*] Thank you very much, hon. Attorney General. I would not be that long. [*Desk thumping*] Our hon. Prime Minister never fails to amaze me. At one time that you will recall, he said, to deal with crime we must soothe the mind with music. Now we saw in the *Guardian* of Wednesday, June 27, 2007, the headline: "PM: 'Style' the cause of road carnage".

**Sen. Joseph:** Ronald Phillip spoke about that. He spent half an hour on that.

**Sen. W. Mark:** He spoke about that?

**Hon. Senators:** Yes.

**Sen. W. Mark:** Well, I am not going to repeat; I am going to be guided. [*Laughter*] I was not here at the time; I did not know. I just want to make a few points before I conclude my contribution. I would like to indicate to the hon. Minister of Works and Transport that he should try as far as possible to adopt or to look at the efficacy of the experience of Singapore with their three Es when it comes to road safety and improving road safety in their country.

The first E is engineering. The roads, I think my colleague spent some time talking about the roads and the need for proper maintenance of the roads of our country. We need proper signage; it is poor in our country. We need to make sure that the drivers are given the best opportunity in order to deal with their safety on the roads. It is incumbent upon the Minister of Works and Transport to ensure that our roads are properly maintained in Trinidad and Tobago.

The other area I would like him to consider is enforcement. Enforcement plays a very important role in road safety. If you want to improve road safety we have to enforce the laws of our country. I want to, because remember you said earlier—When I looked at Act 22 of 2000, which was passed on to me by the hon. Attorney General—it deals with the amendments that the Minister circulated.

Because there was certainly an oversight on his part when it came to the number of months or the time to be served, as well as the fine. He went back to our 2000 amendment and of course he had to deal with it.

The whole question about enforcement; if citizens who are drivers, were fully aware of the consequences of their action; that if you were to drive under the influence of alcohol and you were to damage a citizen on the roads, you would be charged \$8,000 and you will have an imprisonment for three years. And on any subsequent conviction a fine of \$50,000 and to imprisonment for five years. How many citizens are aware of the existence of this law in this country? This was in 2000. Minister Imbert, this was 2000. I am telling you the speed demons in this land are not aware of this. You know why? There is no enforcement of the law by the police in terms of traffic offences and the rules governing traffic regulations and laws governing traffic in our country; motor vehicles in particular.

And apart from the police not being able to enforce the law, the citizenry are not conscious of these provisions in the legislation. I want to appeal again, to the hon. Minister of Works and Transport, through you, Madam President, to make a sizable investment in road safety for our country and for the sake of our citizenry and for the sake of the young people in our country. I do not think that that is a cost that is too high for us to bear, because one life lost on the road is too much.

So, I want to indicate that that is the second E in the Singaporean experience, where we have found road fatalities having taken a nose dive over the last decade in Singapore. I want the hon. Minister to take a leaf out of the Singaporean experience and deal with engineering, enforcement and education. Those three Es have made a big difference to life in Singapore today and I understand—and the Minister could tell me if I am wrong—it is one of the safest countries. Let me put it another way, in terms of the road traffic accidents, it is one of the lowest in the world today—Singapore. And the reason is they enforce their laws; they educate their people and they make sure that the engineering aspect is up to mark; no pun intended. *[Laughter]*

**9.00 p.m.**

**Hon. Senator:** Up to mark. *[Laughter]*

**Sen. W. Mark:** So, Madam President, I think that I have made my points.

**Sen. Dr. Gopeesingh:** You all slow.

**Sen. W. Mark:** I think that I have been able to reinforce our support for the legislation; I think that all that we have done in addition to our support is to provide the hon. Minister with some additional rich suggestions, *[Interruption]* for

*Motor Vehicles (Amdt.) Bill*  
[SEN. MARK]

*Wednesday, July 04, 2007*

his consideration in order to ensure that we improve road safety and security for citizens of our country. And I would hope that I would have been able to add to the rich debate that we would have had today, all in the interest of our nation; all in the interest of our people, and most importantly in the interest of the motorists, the pedestrians, the cyclists and the other road users, because, Madam President, at the end of the day we want to ensure that we have laws that are enforceable; we want education; we want proper engineering. And, Madam President, finally, I know that the Minister has an interest in the rapid rail project.

**Sen. Joseph:** No man. [*Laughter*]

**Sen. W. Mark:** But in terms of mass transport, Madam President, when you talk about rapid rail, I am not going to attack him on the rapid rail—

**Hon. Senator:** No, man; no, man.

**Sen. Jeremie SC:** I do not have an interest in it. [*Crosstalk*]

**Sen. W. Mark:** When I say interest, I do not mean to say personal and if— [*Interruption*] Madam President, I withdraw, it was not designed to deal with any personal thing. I was dealing, Madam President— [*Interruption*]

Madam President, I understand, and the Minister of Works and Transport could tell us, how many cars are there on the roads of our country today? I understand, about over 400,000 cars. Is it over 400,000, Minister; vehicles on the road?

**Hon. Imbert:** Yes.

**Sen. W. Mark:** One of the ways that we can ease the pressure on road users is for us to look at that, and I was using the mass transit in that context. [*Interruption*] If I am coming to deal with other matters it will be on the hustings. [*Interruption*] Do not worry about that now. I was just dealing, Madam President, to support the idea of getting the people to leave their cars at home and travel on a mass transit system, [*Interruption*] so that we can ease the accident rate that we have because of the number of cars on the road.

Madam President, I want to thank you very much for allowing me to address you with that. [*Desk thumping*]

**The Minister of Works and Transport (Hon. Colm Imbert):** “Wow”. Madam President, this has been quite a session; seven Members of the Independent Benches, all six Members of the Opposition Benches; 13 speakers on the other side. Quite an experience and I want to thank everyone who spoke,



including Sen. Mark, although he got carried away in his exuberance from time to time and went off the rails from time to time. [*Laughter*]

**Hon. Senator:** He had rapid rails.

**Hon. C. Imbert:** He had rapid rails. [*Laughter*] He went rapidly off the rails from time to time making one wonder if he was under the influence. [*Laughter*]

**Hon. Senator:** We have to check.

**Hon. C. Imbert:** Let me deal with some of the very pertinent issues raised, and in no particular order. Let me deal with the issue raised by Sen. Cropper about the question of a constable in uniform. I have had a look at the parent Act and it merely uses the word constable. It does not refer to a constable in uniform or showing his authority, so that we will delete the reference to “in uniform or showing his authority”, just take it out and make it consistent with the parent legislation which is simply “a constable”. So that will settle that.

I fully understand the concerns of Sen. Cropper or myself, for that matter, in terms of driving home late at nights and being stopped by some stranger claiming to be a plain clothes police officer, when in fact the person is a bandit. So that is coming out.

In terms of why “constable”; I am advised by the legal draftsman, that the term constable appears throughout the parent Act, the Motor Vehicles and Road Traffic Act. So this being an amendment to the parent Act, the word constable was used to be consistent, otherwise if we were to use police officer or some other thing we would have to change every reference to constable in the parent Act, and in any event constable means police officer. That is what it means. It may appear to be archaic; it may appear to be a throwback to colonial days, but that is what it means. A constable is a police officer, so that is the reason for that.

With respect to a matter raised by Sen. Seetahal SC, perhaps she did not read the verbatim notes. I must commend Sen. Basharat Ali, clearly he read every word inside of here and I must commend Sen. Ali for that, I mean it is quite a lot; 289 pages, so I am really impressed at the fact that he took the time to read this entire report. But if Sen. Seetahal SC had read the report she would have seen that the committee spent a long time dealing with the issue of disqualification on a first offence. And it was in fact the UNC, the Leader of the Opposition, Mrs. Persad-Bissessar, who had raised the issue before we sent this Bill to a Joint Select Committee. In her comments in the other place, she had made the point that we have to look at the draconian measures that we were recommending, look at the concept of rehabilitation, the concept of giving somebody a second chance, the concept of remediation and so on.

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

If you actually go into the verbatim notes, and in fact I will refer Senators to page 98, and this is after we have had a long discussion on this matter, we have Miss Lucky making this point, and therein lies the policy. And I agree with what Sen. Prof. Deosaran said because it means that even though I may not be given a custodial sentence and my fine might be minimal, let us say \$1,000, I am going to be losing my driving permit for at least 12 months. So it is the whole concept of a first offender and the committee deliberated on this matter for a long time, and if one looks carefully at what the committee did, previously in the parent Act, the current legislation there are only two strikes identified. On the first offence, with the amendment of 2000, you are liable on first conviction to a fine of \$8,000 and imprisonment for three years and on any subsequent conviction to a fine of \$15,000 and imprisonment for five years. It speaks to a person being disqualified on the first offence and then for a period of 12 months in the original, changed to three years in 2000, and it also speaks to the person being permanently disqualified on the second offence.

So we had a lot of discussions about this, that is it right for a first time offender—you see the legal limit is .08; someone might be .081, someone might just happen to be over the limit, a first time offender and it was felt that someone like that, they should not lose their permit for one year. It was felt that there should be a three strikes rule: First offence would be fine and custodial sentence; second offence would be fine, custodial sentence and disqualification, and third offence would be fine, custodial sentence and permanent disqualification, and this was the view of the committee. It was a Joint Select Committee; this Bill requires a special majority. There was a lot of give and take in the deliberations; if we did not accept the views of the Opposition we would not have received the special majority in the other place. So that, on balance, I personally do not think that is a bad move to give a first time offender a chance. But the second time you start to get disqualification and the third time you are permanently disqualified.

It was also the representation made by Miss Lucky and other members of the committee, Sen. Dr. Gopeesingh and so on, that led us to a particular wording in section 70A(2) where we added these words:

“A person convicted of—

- (a) two consecutive offences under this section shall unless the Court for special reasons thinks fit to order otherwise...be disqualified for a period of...”

Well in this case we had 12 months, which we are going to amend to three years to make it consistent with the 2000 legislation. Though the meaning of those words is that the judicial officer will be empowered to sentence the person to rehabilitation, go into rehab, do community service and so on, rather than give them a custodial sentence, disqualify them and so on.

We had a lot of deliberations on this and a lot of thought on it, and we are giving the court the discretion to order rehabilitation for the convicted person, rather than just making a cut and dry, black and white situation where fine and custodial sentence, permanent disqualification and so on. We felt that this type of legislation was more empathetic rather than just being a very harsh, draconian approach to legislation.

I did hear one of the Members speak about that, that we should not be looking just at catching people but we should be looking at preventing persons from engaging in this kind of unacceptable behaviour. And that is why we, the committee, remember this is the view of a group, it is not my view, it is the consensus of all 10 members of the committee that instead of having two strikes, with disqualification on the first strike, that there should be now three strikes, disqualification on the second strike and on the third strike. So, I hope that explains the change that we have made and it is very well ventilated in here by the contributions of Sen. Prof. Deosaran, Miss Lucky, Sen. Dr. Gopeesingh and even the PNM Members were all of a similar mind, so that is the reason for removing the disqualification on the first strike.

The other point I want to make, is that, both Sen. Phillip and Sen. Ramadhar-Singh alluded to the concept of a culture of drinking, and even though I appreciated many of the things said by the young Senators, I think you need to be very careful. People are listening to what we say in this Parliament and the last thing you would want is some young person to be listening to these sentiments, that we have to think about persons who may go to a club and drink alcohol, culture of drinking and so on, you need to be very careful. I want to read for you what the experts told us. I am going now to page 123 and this is where we were having a presentation; we were fortunate to have a presentation from Prof. Pinto Perriera, and on page 123, and I am going to read:

Driving is a very subtle and complex task. Because it is so subtle and complex, even low doses of alcohol can affect our skills. The skills involved in driving are of two types; cognitive skills, information processing and there are psychomotive skills, like hand, brain and eye co-ordination. The brain control of eye movement is very vulnerable to alcohol; when driving it is important to have

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

a visual tracking. We have to track the path we are driving and we have to track the lane we are driving on. Tracking is affected by doses of alcohol where the blood alcohol is as low as 30 milligrams. [*Interruption*] There are some typos here; these are 30 to 50 milligrams per cent. That is even lower than 80 milligrams from the 80 in the UK and the USA.

It is difficult to track rapidly moving targets, and she is talking about when you are under the influence of alcohol. And one of the things that struck me, is that the result of numerous studies indicate that divided attention occurs when even very low doses of alcohol of 20 to 60 milligrams per cent. In fact, she went on to say, even at extremely low doses you have cognitive impairment. Let me actually read it, it is on page 124:

“There is no threshold below which you do not see cognitive impairment.”

So the point I am making to both Sen. Ronald Phillip and Sen. Dr. Ramadhar-Singh, when I hear statements made, and I took notes when Sen. Phillip was speaking, when I hear statements being made about: “as a society we tend to encourage young people to drink, drivers drink, we must cater for alcoholics...” and then when I hear Sen. Dr. Ramadhar-Singh speak about a culture of drink and so on, you have to be very careful. We cannot encourage young people to drink. We cannot give people the impression that we want them to drink or we are going to try and make allowances for alcoholics and persons who drink. That is the last thing you want to do. Now I am not saying they may have done this intentionally but you need to be very careful about the message you are sending, because the presentations we received from the two experts, I, myself was surprised at the effects of alcohol on your motor skills.

I was surprised, and both of them were very clear that even at the lowest levels of concentration, in fact one of the UNC Members, Dr. Nanan, throughout the thing was asking that we set a limit of .02; we have set .08, because we felt that we are on a learning curve and therefore we did not want to introduce standards that were lower than the United States, Europe and so on. We may in due course lower the standards as we acquire the expertise and we acquire the learning with respect to the behaviour of our citizens and the capability of the police to test and so on, but throughout the committee meetings one of the Members, he eventually agreed to the .08, but he was pressing for a .02 because he had made the point that in industry when you are operating heavy machinery they set a level as low as .02.

And I want to repeat that. I do not think any Member of this Senate should give the slightest impression that we are in any way encouraging or condoning the use of alcohol and in particular the driving under the influence of alcohol. I want you to be very careful about that—

**Madam President:** Minister would you give way?

**Hon. C. Imbert:** Sure.

**Sen. Dr. Ramadhar-Singh:** I would like to correct that because I was making reference to the rural drinking and the fact that if you have policemen on the highway you would not be able to intercept those people who drink in the rural areas and would be heading up there or would be driving within the communities. And I was talking about using the Ministry of Local Government, policing and local government districts to help in that exercise.

**Hon. C. Imbert:** Well, it seems that your memory is impaired. [*Laughter*] I will now read what you said, “we must not impede people who have a culture of drinking and driving”. Those are your words, and you see that is the point I am making, you have to be very careful—

**Sen. Dr. Ramadhar-Singh:** No, no, I did not say that.

**Hon. C. Imbert:** I wrote exactly what you said—about what you say. You may say things and you do not understand what you are saying. Sen. Phillip spoke about a culture of drinking and that many truck drivers [*Interruption*] that drink and so on, and this will be culture shock, and Sen. Dr. Ramadhar-Singh spoke about, we must not impede people who drink and drive. That is what you said, [*Interruption*] and whether you remember saying that or not, it is not relevant; it does not matter. I am telling you, I sat down over here, I took notes, I heard what you said and I am certain that many of the viewers who are watching this live broadcast also got that impression.

**Hon. Senator:** He is a little slow.

**Hon. C. Imbert:** So, I am just sounding a note of caution; I am not casting any aspersions; I am just warning the younger entrants into this august Senate—

**Hon. Senator:** He is not so young.

**Hon. C. Imbert:** Well, young in senatorial years—to be very careful about what you are saying. [*Interruption*]

Let me move on, and I will go back to the beginning now. [*Interruption*] Sen. Dr. Gopeesingh, well, I must commend you on your contribution [*Desk thumping*]

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

and I was wondering if there were three different parties over there, because after hearing Sen. Dr. Gopeesingh and then hearing Sen. Phillip and Sen. Dr. Ramadhar-Singh—

**Sen. Jeremie SC:** And what about Sen. Mark?

**Hon. C. Imbert:** Sen. Mark, he went off the rails but he came back on, [*Laughter*] he pulled the train back on the rails, eventually. But you know, Sen. Dr. Gopeesingh led his team tonight and I must congratulate you on your expert contribution. [*Desk thumping*] [*Crosstalk*]

Expert contribution, and I will most certainly take on board and I would like to get those regulations from South Australia for the criteria and procedures and so on for taking blood/breath test, blood test and so on. Sen. Dr. Gopeesingh also went through a plethora of issues which were then repeated by some of his Members—

**Hon. Senator:** By everybody.

**Hon. C. Imbert:** No, by some of his Members. [*Laughter*]

**Hon. Senator:** He passed on the speech.

**Hon. C. Imbert:** It is really super elevations, Sen. Dr. Gopeesingh; I do not know where Sen. Dr. Saith is, I was going to tease him about being a senior engineer in the Ministry of Works, some 30-40 years ago and perhaps accuse him of being responsible [*Laughter*] for the extreme super elevation at—but he denied being responsible, but the fact is, it is dangerous, you are absolutely right. That corner or that turn close to Pointe-a-Pierre there, it is very dangerous, and really, we need to look at what is called the supper elevation which is the cross fall at that particular point.

Your point about the electricity poles, I share your views. Just yesterday I was driving down the road and thinking that we really need to get some of the public utilities to come on board with us. If you will allow me to digress, Madam President, WASA drives me crazy, in terms of its approach, its coordination with the highways division and T&TEC is not far behind. In fact, we had an experience the other day with Wrightson Road, where we had just finished the widening of Wrightson Road and so on, and then T&TEC attacked it, right there by the waterfront. But coming back to the point, these utility companies really have to get on board and get with the programme, you are absolutely right about the electricity poles too close to the carriageway. You are absolutely right and as we move towards our Vision 2020 we really need to drag all of these utility companies along with us so that they too, upgrade themselves.

The issue with crash barrels, obvious; the need for cameras, as I indicated at another time, Cabinet has approved a project, and has approved expenditure of some \$37 million for the installation of close circuit television cameras and a surveillance system along all of the main roads and highways, and particularly at major intersections.

**Sen. Dr. Gopeesingh:** Minister, may I just have a second, please?

**Hon. C. Imbert:** Sure.

**Sen. Dr. Gopeesingh:** I was reading recently about the crash barriers, there are water filled crash barriers. I do not know whether you want to give that some thought; you are an engineer and you would probably be able to guide us by that?

**Hon. C. Imbert:** I notice that a frequent commentator, I think a former President of this Senate, Michael Williams, had made the point that these different barriers have different applications. The concrete jersey barriers it is called, it is a very heavy unit, it weighs over 1,000 pounds and it is designed to return the vehicle back to the carriageway; you know the vehicle strays off and hits it and the way it is designed, it is so heavy it does not turn over and it has this particular shape, it is designed to bring the vehicle back on track. This is a design that has been used on American highways for years; it has been subjected to a lot of testing in laboratories and so on.

The water filled is a new innovation, but it is an innovation, and that is for specific applications where you may have a frontal collision at a particular intersection, and you would not want a hard barrier at that location and you would want a barrier that will have some sort of absorptive capacity or would simply give way—would slow the vehicle down and give way. So each type of barrier has different applications, and, yes we are looking at that; the use of different types of barriers at different locations depending on the requirements.

The question of speed traps and the primitive technology used at this particular time, I share your views. The idea of, I think it is one policeman runs out with a white piece of PVC, another one up so and another one with a stopwatch; again it is a lawyer's paradise, in terms of getting a conviction for speeding using that kind of technology. The margin of error is significant, and certainly when we come with the comprehensive amendments to this Act, the Motor Vehicles and Road Traffic Act to deal with cellphones and so on, we will most certainly be dealing with the use of timing devices, radar guns and so on, so that we would move into the modern world.

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

The question of number plates, I completely share your views; it is ridiculous that anybody in a garage could make a number plate. It is absurd, and really, that needs to be dealt with almost immediately.

The question of the absence or the apparent absence of police officers, I am sure the Minister of National Security is dealing with that, as he is dealing with all the other matters relating to national security in a very professional and very efficient manner, and we have discussed this on occasion, that we need to step up the reform of the police service in the mobile area. We all need to be honest about this. It is an area that needs some work and I have been discussing this matter with the Minister of National Security.

The question of defective vehicles, there are issues with the inspection stations, it is something that the owners of these inspection stations have been discussing with me and this too will come in the comprehensive amendments to the Motor Vehicles and Road Traffic Act. The problem is it is not economical. The fee that they collect for inspection is \$160 or something like that, and I am not sure they get to keep all of it. So that it is not economical for them to inspect the vehicles, so that many of them are going out of business, and again you have the lack of enforcement as well in terms of dealing with the defective vehicles. That is certainly another area that we need to look at.

We need to increase the revenue of these inspection stations. Whether the Government would absorb it and provide it as a free service to citizens or whether it will be a cost recovery, that is a policy matter that the Government would deal with, but certainly, it is not economical. I have looked at the actual accounts of some of these inspection stations, and I mean some of them are earning no more than \$10,000 or \$11,000 a month. That is the entire station; that is the building, all the people in the building and so on. Certainly a business cannot survive on a cash flow of \$11,000 a month, maybe not even a single individual might be able to survive on that. So it is something that we need to deal with. We have two problems; you have the fact that it is not economical for the owners of the stations to do the inspection and also with the problems with enforcement, a number of vehicles are out on the road that should not be out on the road. So it is a two-pronged attack in terms of assisting national security to strengthen the mobile unit and also dealing with that problem with the inspection stations.

Questions of the licensing office, I am not going to go into any great detail, than to just say that that is an area that needs a lot of work, and I think someone said that. I would not go into any great detail on that, except to say, I totally agree with you that the modernization and the computerization of the licensing office needs a lot of work.



**9.30 p.m.**

I noted overwhelming support of the banning of cellphones from everyone and Sen. Dr. Gopeesingh was the first one that brought that up. If I go now to Sen. Dr. Mc Kenzie, she made the point that public education is essential which was again reiterated by Sen. Mark in parts of his contribution, that was the focus of the Bill. Whenever Sen. Mark dealt with the Bill during his contribution, during the periods that he dealt with the Bill, he continuously focused on that and it is a very, very valid point. It was Sen. Dr. Mc Kenzie who first made the point that the focus should be on preventing persons from driving under the influence rather than just catching them. The question of Regulations, yes, we are working on the Regulations and we will be coming with those Regulations in the very near future.

The question of making sure that police stations are properly equipped, well, that goes without saying and that is why if you read the report, the committee came to the conclusion that a period of approximately three months will be required to acquire the instruments to set up the system of calibration, to train police officers and to educate the public. Yes, we all want this legislation implemented tomorrow, but there is no point in implementing legislation of this radical nature without having the support systems in place. So, the committee felt that it should take us up to three months, we would try and do it faster than that, but we need to get this legislation passed. It is not to say that the police have not been doing some preliminary training, they have in fact been working on this issue since last year.

They have been familiarizing themselves with the instruments and so on and looking at various service providers who would do the training and so on and identifying persons for training and so on. They have already been doing a lot of pre-planning and a lot of forward planning, but the committee felt and that is why when you look in the legislation you would see that there is a commencement clause on page one, "That this Act shall come into operation on such day as may be fixed by the President for Proclamation", that was the reason for that. And as I said, if you read it, you would see the consensus was that it could take up to three months to educate people; to train police officers; acquire the equipment; pass the Regulations, whatever Regulations are required; and so on.

I totally agreed with the suggestion as well that we should send police officers to other countries that have long experience of implementing breathalyser legislation for training, so they can go on a quick learning curve. Then the question of records, whether a person has already been convicted and so on, very important because we are talking about the three strikes principle inside of here. So that was basically Sen. Dr. Mc Kenzie's contribution.

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

Sen. Phillip would have more or less indicated what he said. He started off by saying he had reservations and then he went into this thing about you must cater for alcoholics and so on, but he made a fantastic statement and I think that is the one that bothered me. Sen. Phillip actually said that alcohol promotes learning. Well, that is absurd and that is why—and I am sorry to use that word absurd and Sen. Phillip actually referred to published research that says when you drink alcohol you are able to learn better. I object to that statement and that is the point I am making that some young person may hear a Senator say that, “If you drink alcohol, you would be able to learn better”. I object to that and I say that is arrant nonsense.

Madam President, I promised I would not use those words in this Senate, but I have to, that is arrant nonsense and some doctor prescribing beer and so on. That is why I had to go to the commentary by Prof. Pinto-Pereira who said that even at a minimal level there is cognitive impairment with use of alcohol. I warn you, Sen. Phillip, be careful what you say, there is no way that drinking alcohol could make you improve your learning ability. That is absurd.

The other points that Sen. Phillip made which I endorsed and agree, that we have to look at calibration, the accuracy of the equipment, expiry dates and so on, very valid and that is where the Bureau of Standards can come in—Sen. Ali—or any other agency, CARIRI, whoever, a reputable agency can come in to deal with calibration and establishment of standards, accuracy levels and all that sort of thing. And I want to repeat, when I look again at what Sen. Phillip had said, we need to look at the social impact of this Bill. But it was the Leader of the Opposition who in the crime discussions with the Government, who insisted that alcohol was a serious problem and insisted that the Breathalyser Bill be part of the package of crime legislation.

Sometimes I wonder if they caucus on that side because it was their leader who insisted that we bring this breathalyser legislation and made it a condition of support for the Police Reform Bills. This was together with the DNA Bill, Equal Opportunity and the Bail Bill and so on, but breathalyser, it was the hon. Member for Siparia who insisted that the Government come with this breathalyser legislation as part of the crime package. So, I really just want to caution some of the newer Senators, just be careful what you say and this whole thing about a system of appeals and so on, that is not—we are creating an offence and the correct forum for dealing with an offence is the court. There is no question of some Appeals Tribunal that would—what is an Appeals Tribunal going to do?

Going to look at the decision of the judicial officer and overturn the decision of a judicial officer? That does not make any sense. So, this thing about a system of appeals, it is just not on. We are amending the Laws of Trinidad and Tobago and some of these suggestions just do not make any sense.

Sen. Prof. Deosaran, who is not here and I must commend him for his suggestions and also the work that he did in the committee, and as I said, we really had a good session. We had a good session in the DNA if I can digress. We have completed our work on the DNA as well and we had a very good session and the Bill is much better now than it was when it went into committee and that Bill will be reported to the Parliament very shortly and we would get the DNA legislation out of the way in due course within the very, very near future. That is ready to come to Parliament, but there were similar Members, we had Sen. Dr. Gopeesingh as well in the DNA, we had Miss Lucky and so on and we had the same sort of collective approach to producing legislation for the benefit of this country, similar to the approach of this Joint Select Committee.

Sen. Prof. Deosaran said that we should look at the legal age for driving and Sen. Munro, I want to reiterate, there is no plan on the part of the Government to increase the legal age for driving, but certainly we are going to look at it. Certainly, we are going to look at what occurs in other jurisdictions and see whether there—because when you look at the debate on that, there are whole groups of people for and against the idea of raising the legal limits. Some countries you can drive when you are 16 years old. Yes, it is a fact, others you cannot drive until you are 21 years old. It is all dependent on the particular circumstances of your country and exactly what you wish and it is something we need to talk about, it is not something that we are going to jump into just like that. We are going to have other discussions on this as to whether we should change the legal age for driving. So, I just want to reassure you, Sen. Munro, there is no perception of any plan; there is no possibility of any plan at this point in time.

Let us move on, Sen. King. Sen. King queried the idea of reasonable cause and I just want to reiterate the police officer will use a number of things to come to the conclusion and a court will test that. The use of the terminology, reasonable cause and Sen. Prof. Ramchand, it is a term of art, reasonable cause; it is a legal term and a court will test that and establish whether the police officer had reasonable cause or not. In this particular case, one would expect the police officer to use, as I said, typical sobriety test. Look at the person's eyes and see if their pupils are dilated; see if there is a smell of alcohol on the breath; see if their

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

speech is slurred; see if they can walk; see if they are unsteady; use a variety of sobriety tests; informal sobriety tests and draw a conclusion; and the police officer would have to be reasonable.

The police officer just cannot come up as you are worried about and stand up outside the President's House and after you come out, say, "All right, Ramchand, come. Yes, you see you, you look like a drinker, down to the station". It is not going to be like that, it is a term of art and it has been tested in the courts on many occasions.

**Sen. Jeremie SC:** [*Inaudible*]

**Hon. C. Imbert:** It is a reasonable standard. It would be judged against the basic standards that police use to stop someone. In terms of the instruments, Sen. King also spoke about that and Sen. Ali, and of course, we are going to have a system to ensure that these instruments are calibrated and that they are checked and certified on a regular basis. It would not be a one and done thing where you just buy it and never check it after, that would not make any sense. You are absolutely right that frequent testing would be required and we would be speaking as we have been speaking to the Bureau of Standards and other agencies in the country and also speaking to overseas agencies which have experience of testing and calibrating breathalyser instruments, that is who I would be speaking to. You had asked who the Minister or the Ministry would be speaking to; we would be speaking to testing agencies in Trinidad and testing agencies abroad.

The question of someone getting his own breath tested, I think that would be almost impossible because of the time factors. By the time the testing is over, too much time would be elapsed and it would be useless for the person to try and do his own testing. And then, is the question of accuracy of device that the person would use and all that sort of thing, I just do not see it happening. Of course, somebody can go and test their own breath, but by the time they get around to doing that and you would have the question of the integrity of that test and so on, I do not think that would be of any use. The question of the narrowness of the legislation, we debated that at length, that was brought up in the other place, but the testing for drugs is in the experimental stage now. There just is not enough expertise and learning in the rest of the world with respect to this matter and we felt that we would include a provision that would allow the Minister a future date to prescribe a device for the testing of the drugs, but we just leave that provision there until there is more knowledge and experience in other countries in terms of testing for narcotics and so on.

Of course, people are driving under the influence of narcotics, but it is a new area and there is still a lot of work to be done there. In terms of the sentencing, well, that confusion arose because of a glitch and it seems that quite a few people—I am surprised that Sen. Seetahal SC also did not have the 2000 copy, but unfortunately, the drafters were not aware. It is one of these things that happens, we were not aware of it and it appears that when that 2000 (Amdt.) Act was enacted, the Bill was not circulated to the legal fraternity; it does appear so. It appears to be in a glitch because in the entire committee no one appeared to be aware of the existence of the changes in the penalties. This is why the amendment is circulated to make it consistent with the penalties that are in the law right now as a result of the 2000 amendment.

**Hon. Senator:** [*Inaudible*]

**Hon. C. Imbert:** I am a guest in this place, I have to deal with what the Senators have said. I am just going through—there were a lot of repetitions, so that when I look at comments made by Senators who repeated other Senators there is no need to go into that.

**Sen. Mark:** Why is Sen. Yuille-Williams looking so?

**Hon. C. Imbert:** I think it is late and everybody is tired.

**Sen. King:** Mr. Minister, could you comment please on perhaps the public education that we talked about.

**Hon. C. Imbert:** I am coming to that. Sen. Prof. Ramchand made the point which was made by other speakers, that there are many more amendments required to the Motor Vehicles and Road Traffic Act and we will be bringing comprehensive amendments to deal with all sorts of things. To deal with offences generally, penalties, speeding, persons that stop—my colleague here made a little joke when he was talking about persons stopping and embarking, it is in our culture to say, “Driver, I go take it here”; “Drop me by the light”; “I will take it by the corner”, that is our culture. So, we really need to change that culture and make it a very serious offence for someone to stop and allow persons to disembark by a traffic light or by a corner or something like that, but that is our culture. So, the issues about garaging, jaywalking and so on, these are very, very serious issues.

Just today, coming to the Parliament today, I went down Wrightson Road came along Independence Square and as I approached Abercromby Street, the light was green—I had the green—and a group of adults with about 10 children just looked at me and walked the children across the road in front of me and I had

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

the green. They were not looking at the road; they were not looking at the traffic lights, nothing, they were completely oblivious to the situation. Fortunately, I saw them so I stopped and I pointed out to them that they were walking straight across a busy road with a green light which they had not seen. So it was not deliberate, they just had not noticed that.

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

*Motion made,* That the hon. Minister's speaking time be extended by 15 minutes.  
[Sen. Dr. T. Gopeesingh]

*Question put and agreed to.*

**Hon. C. Imbert:** I wish to thank hon. Senators on that side for extending my time. [Laughter] Madam President, I am hearing that they almost called for a division on this side. [Laughter] We had this the other day in our place where Sen. Abdul-Hamid was dealing with a particular Bill and he took his full 75 minutes, I was quite upset myself, it was 3 o'clock in the morning, but when he was finished, he had done a very comprehensive treatment of the legislation and it was necessary. So, I apologize to my side, but we do need to deal with all of the issues. I am almost finished. So, I have dealt with the question of random testing, I agree with Sen. Seetahal SC, the idea of random testing to me, is an invasion of your rights. I do not—

**Sen. Prof. Ramchand:** Madam President, I just wanted to say that before we say that, just remember that we have road blocks to check for guns, to check for drugs and random testing can be done in a similar way without being an invasion of privacy. I think it is an invasion of privacy if we just walk up to someone on the road arbitrarily and tell him, but if there are places where there are road blocks, I do not see that that does any harm and there really is a problem. There is an offence to drive with alcohol in your breath and in your blood, how do you catch a person who commits that offence, but who is not driving dangerously? The only thing is, the random thing so that people who drink and get away with it would know they cannot always get away because there are these random tests. So, before you make up your mind, finally, I know Sen. Seetahal SC is very persuasive, but let us keep it open.

**Hon. C. Imbert:** Thank you, hon. Senator, but you did not need to persuade me. You see a road block is not a random event, a road block is planned. The concept of randomness is that you just catch a "vaps" and you test someone. In a road block—but you see, one has to be very careful with language—you will

encounter a police officer will be checking for arms and drugs and whatever, but they may come across someone who they have reasonable cause to suspect is driving under the influence and then, that person is going to get the breath test. So, there is random and there is random. A road block is not a random event, it is planned. So, I just wanted to clarify and I want to make this point also in terms of Sen. Dr. Ramadhar-Singh who said that if you look at the statistics in trying to justify why he was repeating everybody else, he made a very witty comment about—well nobody else brought statistics. But you need to understand that the number of cars on the road has literally doubled in the last 10 years.

So, you have to look at statistics holistically. If you had 150 fatalities 10 years ago, you also had 200,000 cars 10 years ago, now you have 400,000 cars and now you have 200 fatal accidents and so, you have to look at statistics holistically. If you looked at it, per thousand cars, you might actually find that the number of fatal accidents per 1,000 cars has gone down; it has not gone up, so that statistics can be very, very misleading. So, you have to look at an entire picture and you cannot charge somebody for speeding in the night because remember, this thing is primitive. A “fella” has to hold the thing, another one has to hold it, you have to have a stop watch, you cannot do that in the night and this is why we have to bring in the radar guns so that we can actually do that because something like that would be thrown out of court in my view, right away.

I dealt with the question of disqualification that Sen. Seetahal SC brought up. Sen. Seetahal SC also did not seem to have seen the provision with respect to giving the court the discretion to deal with rehabilitation and if you read the verbatim notes, you would have seen we put that in because she asked about rehabilitation, but we have given the court that ability to order rehabilitation as opposed to the strict sentences inside of here.

Again, I must compliment Sen. Ali for his very comprehensive approach to the matter. He clearly took the time to read the entire report and I want to thank Sen. Ali for his very holistic and scientific approach to his contribution and we would most certainly be working in collaboration with the Bureau of Standards. That is the first agency that we met with in the Ministry—*[Interruption]*

**Hon. Senator:** *[Inaudible]*

**Hon. C. Imbert:** Yes, but I have to deal with his contribution. Sen. Cropper, I want to thank you for your kind words, that is the first thing I want to do and to deal with the specific points that you made. We could have taken the opportunity in this legislation to deal with cellphones, but our focus when we started this

*Motor Vehicles (Amdt.) Bill*  
[HON. C. IMBERT]

*Wednesday, July 04, 2007*

process was on driving under the influence of alcohol. The cellphone issue arose at the end when the committee had completed its work and we did not want to delay the introduction of the breathalyser because the cellphone issue, although it may appear simple on the surface, could be quite complicated in terms of whether you allow hand's free cellphones; exactly how are you going to detect someone is using a cellphone.

Remember with a breath test, you can test the person for alcohol, but how do you know that the person was using the cellphone, it does not have to be a visual examination, someone has to actually say, "I saw this person". So, we thought that while we must ban cellphones, we need to look at that in a little more depth; we did not want to delay the passage. While I agreed with you that we should not wait, we felt that it was not appropriate at that point in time. We will be using Arrive Alive; we will be using that NGO, they are excellent, I was very impressed by their expertise in the committee. *[Interruption]*

**Hon. Senator:** *[Inaudible]*

**Hon. C. Imbert:** No, no, definitely, but we will be using Arrive Alive to assist us in this process and any other NGO that has the necessary expertise with respect to this matter.

And finally, I hear Members on my side breathe a sign of relief, but the problem I am having now is that I am going to be talking about Sen. Mark's contribution. It is about ten pages of notes that I took.

**Sen. Mark:** Madam President, I am interested in one area, he does not have to go through my 10 pages. The issue of a department of road safety, I really would like if you could give that consideration.

**Hon. C. Imbert:** I was going to summarize everything that you said, I was just teasing my Members. The one important issue that Sen. Mark raised was the question of establishing a permanent road safety department and I entirely endorse that. In fact, Sen. Prof. Deosaran has been talking with us now for several months about establishing a centre for road safety, not just a department, and it is a very, very commendable suggestion and a very good idea and the idea of having a permanent approach to road safety is something to be endorsed. The idea of a national road safety policy, a very good idea and it is something that we would be coming with.

Madam President, the only thing I would say as I take my seat, is that in his effort to be dramatic, Sen. Mark engaged in a Freudian slip when he said the Minister must come here every year from now on and tell this Parliament what he



*Motor Vehicles (Amdt.) Bill*

*Wednesday, July 04, 2007*

intends to do about road safety. [*Crosstalk*] I can only come here if we are going to be in the next Government [*Desk thumping*] [*Laughter*] and it is clear that Sen. Mark—[*Interruption*]

**Sen. Dr. Gopeesingh:** [*Inaudible*]

**Hon. C. Imbert:** No, he said this Minister, I must come here on an annual basis and it is clear that Sen. Mark along with his colleagues have resigned themselves to at least five more years of PNM Government.

I beg to move, Madam President. [*Desk thumping*]

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

**10.00 p.m.**

*Senate in committee.*

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

*Clause 4.*

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

**Mr. Imbert:** Madam Chairman, the amendments circulated to clause 4 are as follows:

Clause 4(a) Delete.

Clause 4(b) In the proposed section 70(2)(a), delete the words “twelve months” and substitute the words “three years”.

This will remove the mischief that has been created with the \$2,000 and the \$4,000 and will cause us to revert to Act. No. 22 of 2000. We also wish to amend clause 4(b) to make it consistent with Act No. 22 of 2000 which had raised the period of imprisonment on the first offence from twelve months to three years.

**Madam Chairman:** So we are taking off twelve months and putting three years.

**Mr. Imbert:** Yes. As circulated in the proposed section 70(2)(a), delete the words “twelve months” and substitute the words “three years”.

**Sen. Cropper:** Madam Chairman, I am wondering in clause 4 at (b) introducing the new subsection 2, whether we should say, disqualification from the date of the conviction “from” holding or obtaining a driving permit.

**Madam Chairman:** I think that must be a typo there.

**Mr. Imbert:** I am advised by the drafter that this was discussed at some length and it should be “for”. It is correct. Can I just refer to the parent Act? The parent Act has the same wording. It says “disqualified for holding”. I know it appears not to make any sense and it should be “from”, but—

**Sen. Cropper:** Are we ever going to be in a position where we can correct things or upgrade things from preceding Acts and legislation?

**Mr. Imbert:** I understand, but I would not want to change it from “for” to “from” because we would find ourselves in difficulty with the parent Act. The drafters are telling me it is correct. On the face of it, it does not appear to make sense but I would like to leave it.

**Sen. Prof. Ramchand:** I think there is a mistaken notion of analogy there. You say, you are qualified for doing so and so, and then say you are also disqualified for doing so and so. So they were just being consistent—

**Mr. Imbert:** I bow to the linguist.

**Sen. Prof. Ramchand:** It is a mistake, but—

**Mr. Imbert:** I understand. But that is how the parent Act has it.

*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. Imbert:** Madam Chairman, I beg to move that clause 5 be amended as circulated, which reads as follows:

- A. In the proposed section 70A(2)(a), delete the words “five” and “six months” and substitute the words “eight” and “three years”, respectively.
- B. In the proposed section 70A(2)(b), delete the words “ten” and “twelve months” and substitute the words “fifteen” and “five years”, respectively.

- C. In the proposed section 70A(3), delete the words “twelve months” and substitute the words “three years”.
- D. In the proposed section 70B(5), delete the words “five thousand” and “six months” and substitute the words “eight thousand” and “three years”, respectively.
- E. In the proposed section 70C(6)(c), delete the words “six thousand” and “six months” and substitute the words “eight thousand” and “three years”, respectively.
- F. In the proposed section 70C(6)(d), delete the words “ten” and “twelve months” and substitute the words “fifteen” and “five years”, respectively.
- G. In the proposed section 70E(1)(a), delete the words “six thousand” and “six months” and substitute the words “eight thousand” and “three years”, respectively.
- H. In the proposed section 70E(1)(b), delete the words “ten thousand” and “twelve months” and substitute the words “fifteen thousand” and “five years”, respectively.

The purpose is to make the legislation consistent with the 2000 Act that was brought to our attention by Sen. Ali in terms of the penalties.

Madam Chairman, I have a further amendment. On page 4 in clause 5, new subsection (5), delete the words appearing after “constable”, which are, “in uniform or on showing his authority”. So that would be section 70A(5). Also, we have to make a similar change in section 70B(1). Again, after the word, “constable”, delete the words “in uniform or on showing his authority”. It would just read “constable” or “Any constable”.

**Sen. Montano:** Should you not delete “as a member”?

**Mr. Imbert:** Yes, you are absolutely right. So in section 70A(5) and in section 70B(1), delete the words “in uniform or on showing his authority as a member of the Police Service”. All those words have to come out.

**Sen. King:** And, Madam Chairman, section 70B(3) as well.

**Mr. Imbert:** You are absolutely correct. On page 5 at the bottom, subsection (3), again after the word “constable” delete “in uniform or on showing his authority as a member of the Police Service”.



*Motor Vehicles (Amdt.) Bill*

*Wednesday, July 04, 2007*

Kangaloo, Hon. C.  
Sahadeo, Hon. C.  
Ramroop, Hon. S.  
Williams-Smith, Mrs. M.  
Mark, W.  
Gopeesingh, Dr. T.  
Kernahan, Dr. J.  
Ramadhar-Singh, Dr. G.  
Phillip, R.  
Munro, W.  
Mc Kenzie, Dr. E.  
Ramchand, Prof. K.  
King, Mrs. M.  
Anmolsingh-Mahabir, Mrs. P.  
Ali, B.  
Cropper, Mrs. A

*Question agreed to.*

*Bill accordingly read the third time and passed.*

#### ADJOURNMENT

**The Minister of Community Development, Culture and Gender Affairs (Sen. The Hon. Joan Yuille-Williams):** Madam President, I beg to move that the Senate do now adjourn to Tuesday, July 10, 2007 at 1.30 p.m.

This evening we had hoped to do two pieces of legislation, unfortunately we were only able to complete one. I hope we can do a little better next Tuesday. So we are hoping to start with a Bill to amend the Copyright Act, 2007; a Bill to amend the Medical Board Act, Chap. 29:50 and a third piece of legislation which is a Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement Establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Service

*Adjournment*

*Wednesday, July 04, 2007*

[SEN. THE HON. J. YUILLE-WILLIAMS]

Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Service Commission. It is a very ambitious programme.

**Sen. Mark:** May I ask the hon. Minister whether the Bill to amend the Legal Profession Act which we were supposed to do today, has been abandoned?

**Sen. The Hon. J. Yuille-Williams:** No, that is also still on the agenda.

**Sen. Mark:** But it is not being dealt with next week?

**Sen. The Hon. J. Yuille-Williams:** No. We just chose to do the others.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 10.12 p.m.*